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MONTANA LEGISLATIVE HISTORY

Chapter 527 Session L 1975
Bill House ____ Senate 175

History and final status sheet NA
Introduced bill X
Fiscal note NA
Third reading bill X
Final version of bill X

House Committee on Natural Resources

Hearing date(s)* 3/13 3/20 3/18 3/25

Executive action (vote) date(s)* 3/20

Comm. Report 3/22

Floor 2nd reading & vote 3/22;3/26

Floor 3rd reading & vote 3/28

Senate Committee on Judiciary

Hearing date(s)* 2/3 2/24 2/6 2/25

Executive action (vote) date(s)* 2/24

Comm. Report ____

Floor 2nd reading & vote 2/27;2/28;4/9;

Floor 3rd reading & vote 2/28

Conference or Free Conference Comm. Both Yes ____ No

Hearing date(s)* 4/10;4/15

Executive action (vote) date(s)* No minutes available

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes X No

Committee ____ Report ____

NOTES: There were also no minutes available for the subcommittees.

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Compiled by: rg

Date: 6/13/19

SENATE BILL NO. 175

INTRODUCED BY Brown Roberts Burke Watt

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROTECT LAKESHORES BY REQUIRING A PERMIT FOR ANY WORK WHICH WOULD ALTER OR DIMINISH A LAKE; REQUIRING LOCAL GOVERNING BODIES TO ADOPT REGULATIONS GOVERNING THE ISSUANCE OF SUCH PERMITS; PROVIDING FOR VARIANCES, JUDICIAL REVIEW, AND FUNDING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Declaration of policy. The legislature finds and declares that the natural lakes of Montana are high in scenic and resource values and that the conservation and protection of these lakes is important to the continued value of lakeshore property as well as to the state's residents and visitors who use and enjoy the lakes. The legislature further declares that local governments should play the primary public roles in establishing policies to conserve and protect lakes. Local governments do not have adequate statutory powers to protect their lake areas, and it is the purpose of this act to confer such powers on local governments, provided that such powers are exercised to maintain public health, welfare, and safety.

Section 2. Definitions. As used in this act--

(1) "Lake" means a body of standing water, and the area within its lakeshore, occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least one hundred sixty (160) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, and navigable by canoes and small boats. A board of county commissioners may by resolution change the minimum size in the definition of a lake so that this act may apply to lakes in the county no smaller than twenty (20) acres in water surface area.

(2) "Lakeshore" is the perimeter of a lake when the lake is at mean annual high water elevation.

(3) "Mean annual high water elevation" is the mean average of the highest elevation of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. A highest elevation caused by operation of a dam or other impoundment counts toward the establishment of the mean annual high water elevation.

(4) "Local governing body" or "governing body" is that unit of local government authorized to administer the Montana Subdivision and Platting Act on the land adjoining a

lake or part of a lake subject to this act.

Section 3. Work for which permit required. A person who proposes to do any work which will alter or diminish the course, current, or cross-sectional area of a lake must first secure a permit for the work from the local governing body. Without limitation, the following activities are, when conducted below mean annual high water elevation, examples of work for which a permit is required: construction of channels and ditches; dredging of lake bottom areas to remove muck, silt, or weeds; lagooning; and filling.

Section 4. Criteria for issuance of permits. (1) A planning board created under section 11-3801 for an area containing a lake shall propose, before January 1, 1976, regulations governing the issuance of permits for work in lakes. The governing body or bodies shall adopt these regulations in the form of criteria for the issuance or denial of permits.

(2) The regulations shall favor issuance if the proposed work will not, during either its construction or its utilization:

(a) diminish water quality,

(b) diminish habitat for fish or wildlife,

(c) interfere with navigation or other lawful recreation,

(d) create a public nuisance, or

(e) create a visual impact discordant with natural scenic values, as determined by the planning board, where such values form the predominant landscape elements.

(3) A governing body whose area contains more than one lake may adopt regulations in differing form for the various lakes, recognizing the physical and social differences between lakes.

(4) The requirements of subsection (2) of this section are minimum requirements and do not restrict a local governing body from adopting such stricter or additional regulations as may be authorized by other statutes.

(5) If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the department of natural resources and conservation may upon petition of five (5) owners of land along a lake adopt such regulations for the particular lake. The department may then exercise the powers conferred upon a local governing body by this act until the governing body adopts the necessary regulations.

Section 5. Application for permits -- procedure. A person seeking a permit for work in a lake shall apply to the local governing body, and shall pay an application fee of ten dollars ($10) to the governing body. If the governing body has or is participating in a planning board,

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the application shall be referred to the planning board. The planning board shall determine whether the proposed work conforms to the criteria for issuance of a permit, and may require the applicant to submit additional information before the board reaches a conclusion. The board shall report its findings to the governing body within three (3) months of receiving an application, unless for cause the governing body extends this time. In areas where a planning board is not established, the functions of a planning board under this section shall be exercised by the local board of health.

Section 6. Consideration of applications by governing body. When a planning board finds that proposed work conforms to the criteria for issuing a permit under this act, the governing body shall approve or reject the application depending upon its compliance with all pertinent rules and statutes. When a planning board finds that proposed work does not conform to these criteria, the governing body may not approve the application without first granting to the applicant a variance from the regulations.

Section 7. Variance procedure. A governing body which proposes to grant a variance from its regulations under this act shall first prepare an environmental impact statement at the expense of the applicant which conforms to the requirements of the Montana Environmental Policy Act,

distribute this statement to interested residents, and conduct a public hearing on the proposed action.

Section 8. Removing work undertaken without permit. A person who performs work in a lake after the effective date of this act without a permit for that work shall restore the lake to its condition before he disturbed it, upon order of the governing body or the district court.

Section 9. Judicial enforcement and review. The district court may hear and decide the following cases arising under this act within the district:

(1) A complaint and petition of a governing body or an interested person for an order to restore a lake to its previous condition or to enjoin further work in a lake.

(2) A petition of an interested person for review of a final action of a governing body upon an application for a permit.

(3) A petition of an interested person for review of an action of a governing body in adopting or amending regulations.

Section 10. Penalty. A person who violates an order issued under this act or who knowingly violates a regulation made under this act commits a misdemeanor, and on conviction may be sentenced to thirty (30) days in the county jail or fined five hundred dollar ($500), or both. Fines collected under this section shall be paid to the general fund of the

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county where the offense was committed for the purpose of administering this act.

Section 11. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Funding. In compliance with section 43-517, R.C.M. 1947, the administration of this act is declared a public purpose of a city or county which may be paid out of permit application fees collected under section [5 of this act] and federal revenue sharing moneys.

-End-

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02.

Devine, Manley, Roberts, Galt, Kolstad, aly, Lee: A bill for an act entitled: "An act 4-117, R.C.M. 1947, to remove archaic lan- le a person who purchases liquor in case lots (5%) reduction from the retail price."

173, 221, 244, 249, **277**, 985, 1011, 1041, 1074, 1323, 1425.

378, 972, 994, 1012, 1082, 1083, **1112**, **1212**, **1217**,

Roberts, Regan, Manley, Norman, Blaylock, Mathers, Drake, Turnage: A bill for an act amend Section 84-301, R.C.M. 1947, to clas- tories in Class Seven (7) for the purpose of

152, 171, 196, 207, **234**, 967, 1202, 1211, 1271,

323, 1085, 1113, **1192**, 1396, 1428, 1531.

A bill for an act entitled: "An act amending .M. 1947, to provide that number plates for issued every four (4) years, and to add an registration of fifty cents per year; and 53-112, R.C.M. 1947, to increase the fee for of ownership and transfer of title from two ars."

91.

Drake: A bill for an act entitled: "An act 11-1024, R.C.M. 1947, increasing the public ution to insurance for public employees to nt of the employee only premium or an d twenty-five dollars per month."

71, **486**.

aly, Mehrens, Lynch, Murphy, Fasbender, Turnage: A bill for an act entitled: "An act ly and mentally handicapped persons to icense for a nominal fee; amending Section 47."

267, 305, 330, 349, **370**, 728, 781, 782, 789, 809,

, 507, 556, 588, 651, 670, 915, **946**, 1024, 1034,

A bill for an act entitled: "An act imposing n the gross value of the product derived from for metals or precious or semiprecious ing the proceeds of such tax to the counties akes place."

170 Introduced by Mathers: A bill for an act entitled: "An act to amend Section 75-7205, R.C.M. 1947, to allow the establishment of a Building Reserve Fund for the purpose of purchasing land; providing an immediate effective date."

Senate Page No. 89, 141, 161, 182, 185, **217**, 520, 669, 686, 687, 696, 727.

House Page No. 306, 307, 526, 587, 588, **649**, 916, 928, 950.

171 Introduced by Aber, Kolstad, Goodover, Healy: A bill for an act entitled: "An act to amend Section 32-4720, R.C.M. 1947, changing the size of the identification tag from six square inches to six inches square."

Senate Page No. 89, 121, 161, 182, 183, 221, **246**, 426, 443, 473, 477, 479, 628.

House Page No. 336, 339, 443, 466, **536**, 634, 643.

172 Introduced by Lynch: A bill for an act entitled: "An act amending Section 37-104.1, R.C.M. 1947, to require the Attorney General, in his summary of referred, initiative, or constitutional amendment measures, to include an explanation of the exact meaning of a vote for and a vote against the measure."

Senate Page No. 89, **484**.

173 Introduced by McOmber (by request of the Department of Revenue): A bill for an act entitled: "An act to amend Section 84-1901, R.C.M. 1947, relating to the disposition of moneys from certain license and other taxes."

Senate Page No. 89, 186, 237, 260, 265, **288**, 1027, 1296, 1303, 1305, 1323, 1361.

House Page No. 391, 394, 1122, 1167, **1250**, 1478, 1492, 1531.

174 Introduced by McOmber, Nelson (by request of Department of Revenue): A bill for an act entitled: "An act amending Section 84-6701, R.C.M. 1947, to insert necessary language in the adoption paragraph of the Multistate Tax Compact."

Senate Page No. 89, 186, 237, 260, 265, **288**, 901, 957, 958, 980, 981, 1085.

House Page No. 391, 394, 1035, 1083, **1131**, 1204, 1222, 1310.

175 Introduced by Brown, Roberts, Drake, Watt: A bill for an act entitled: "An act to protect lakeshores by requiring a permit for any work which would alter or diminish a lake; requiring local governing bodies to adopt regulations governing the issuance of such permits; providing for variances, judicial review, and funding."

Senate Page No. 89, 610, 621, 642, 643, 645, 657, 663, **664**, 1351, 1417, 1425, 1453, 1534, 1553, 1574, 1649, **1653**, 1655, 1662, 1663, 1664.

House Page No. 911, 913, 1225, 1227, 1300, 1308, **1339**, 1403, 1434, **1464**, 1566, 1575, 1650, 1661, 1662, 1705, 1772, 1774, **1775**, 1778, 1792.

176 Introduced by Galt, Graham, Turnage, Roskie, Manley: A bill for

February 28, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Senate Bill, requiring a two-thirds vote of those present and voting, was this day read three several times, and passed, and is herewith transmitted to the House for concurrence:

Senate Bill No. 206, introduced by Thiessen, Olson, Galt, et al

YEAS - 30
NAYS - 15

Respectfully yours,

John N. Hanson
Secretary of the Senate

MOTIONS

Lynch moved the rules be temporarily suspended and that Senate Bill No. 265 be allowed to be accepted by the House.

Motion carried.

Driscoll moved that House Bills Nos. 11, 53, 54 and 64 be taken from Second Reading and be rereferred to the Committee on Appropriations.

Motion carried.

Vincent moved that Senate Bill No. 227 be rereferred from the Committee on Local Government to the Committee on Public Health, Welfare and Safety.

Motion carried.

FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following bills were introduced, read first time and referred to committees:

Senate Bill No. 273, introduced by Roberts: A bill for an act entitled: "An act to impose a roll-back tax upon land classified as timberland which is converted to a use other than forestry." Referred to Committee on Taxation.

Senate Bill No. 275, introduced by Cetrone, Manley, Regan, Greely, Blaylock, Flynn, Dunkle, Fasbender, Towe, Romney: A bill for an act entitled: "An act repealing Section 75-6126, and amending Sections 75-6117, 75-6118, 75-6119, 75-6120, 75-6122, 75-6123, 75-6124, and 75-6125, R.C.M. 1947; providing for the utilization of the Board of Personnel Appeals in controversies arising under the Professional Negotiations Act for Teachers, defining and providing a remedy for unfair practices, and otherwise amending the Professional Negotiations Act for Teachers." Referred to Committee on Education.

Senate Bill No. 306, introduced by Lynch, Lee, Healy: A bill for an act entitled: "An act to require cities of the first and second class to pay full premium for insurance provided under Section 11-1024, R.C.M. 1947, to police in the respective cities, to provide a minimum life insurance coverage, and to provide authority to raise the local mill levy if necessary." Referred to Committee on Local Government.

Senate Bill No. 310, introduced by Greely, Hazelbaker, Towe, Fasbender, Warden, Turnage, Regan, Roberts, Murphy, Lynch, Watt, Seibel, Devine, Healy: A bill for an act entitled: "An act to provide for a policy of preserving the natural or existing shape, form and course of streams to activities of private persons or organizations; and in so doing to keep soil erosion and sedimentation to a minimum in the state of Montana; and to provide for penalties and enforcement." Referred to Committee on Natural Resources.

3-4-75

Senate Bill No. 206, introduced by Thiessen, Olson, Galt, Aber, Graham, Manley, Kolstad, Dunkle, Brown, Himsl: A bill for an act entitled: "An act to generally revise the laws relating to sovereign immunity and liability insurance for governmental entities; providing for sovereign immunity under certain circumstances: amending and renumbering Section 83-703, R.C.M. 1947, and repealing Sections 83-701, 83-702, 83-704, 83-705, 83-706.1, and 82-4310 through 82-4327, R.C.M. 1947." Referred to Committee on Judiciary.

Senate Bill No. 175, introduced by Brown, Roberts, Drake, Watt: A bill for an act entitled: "An act to protect lakeshores by requiring a permit for any work which would alter or diminish a lake; requiring local governing bodies to adopt regulations governing the issuance of such permits; providing for variances, judicial review, and funding." Referred to Committee on Natural Resources.

Senate Bill No. 223, introduced by Romney, Murphy, Regan, Jergeson, Kolstad, Himsl, Lee, Blaylock, Healy, Warden, Story, Roskie, Boylan, Flynn, Seibel, Aber, Norman, Colberg, Manley, Thiessen, Cetrone, E. Smith, Galt, Conover, McOmber, R. Smith, Manning, Foster, Watt, Hazelbaker, Etchart, Nelson, Stephens, Fasbender, Devine, Goodover, McCallum, Graham, Dunkle, Towe, Drake, Roberts, Turnage, Brown, Olson, Greely, Mehrens, Rosell: A bill for an act entitled: "An act to provide for the transfer of real and personal property held in joint tenancy by husbands and wives without court procedures; repealing Section 91-4321, R.C.M. 1947; and providing an immediate effective date." Referred to Committee on Judiciary.

Senate Bill No. 334, introduced by Dunkle, Healy (by request of Department of Licensing): A bill for an act entitled: "An act to generally revise and update laws relating to professional engineers and land surveyors; amending Section 82A-1602.11, R.C.M. 1947; renumbering Sections 66-2329, 66-2331, 66-2332, 66-2333, 66-2334, 66-2335, 66-2337, 66-2340, 66-2344, 66-2346, R.C.M. 1947; and repealing Sections 66-2326, 66-2336, 66-2338, 66-2339, 66-2342, 66-2343, 66-2345, and 66-2347, R.C.M. 1947." Referred to Committee on State Administration.

Senate Bill No. 377, introduced by Towe, Drake, Roberts, Brown, Seibel, Fasbender, Regan, Blaylock, Conover, Cetrone, Romney: A bill for an act entitled: "An act to provide for determination and treatment of the seriously mentally ill and those suffering from mental disorders; amending Sections 38-110, 38-212, 38-506, 38-507, and 80-1601; repealing Sections 38-107, 38-108, 38-109, 38-112, 38-113, 38-114, 38-115, 38-116, 38-201, 38-202, 38-203, 38-204, 38-205, 38-206, 38-207, 38-208, 38-208.1, 38-208.2, 38-208.3, 38-209, 38-211, 38-213, 38-401, 38-402, 38-403, 38-404, 38-405, 38-406, 38-406.1, 38-406.2, 38-407, 38-408, 38-408.1, 38-502, 38-503, 38-504, 38-505, and 64-112, R.C.M. 1947." Referred to Committee on Judiciary.

Senate Bill No. 387, introduced by Norman, Kolstad, Towe: A bill for an act entitled: "An act to provide for the regulation of nonprofit health service corporations." Referred to Committee on Public Health, Welfare and Safety.

44th LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
121	1/18/75	1/24/75	2/10/75			2/10/75			
122	1/18/75	1/24/75	1/24/75	1/24/75					
123	1/18/75	1/24/75	1/24/75	1/24/75					
124	1/18/75	1/24/75	1/24/75	1/24/75					
125	1/18/75	1/28/75	2/25/75		as amend 2/24/75				
130	1/20/75	1/28/75	2/5/75	2/5/75					
134	1/20/75	1/27/75	2/5/75			2/5/75			
138	1/21/75	1/29/75	2/5/75			2/5/75			
143	1/21/75	1/30/75	2/5/75			2/5/75			
148	1/21/75	1/29/75	2/21/75			2/21/75			
153	2/1/75	2/18/75	2/24/75			2/24/75			
154	1/21/75	2/24/75	2/24/75	2/24/75					
161	1/21/75	1/30/75	2/1/75			1/30/75			
162	1/28/75	2/7/75	2/10/75			2/10/75			
172	1/22/75	2/4/75	2/21/75		2/21/75				
175	1/22/75	2/3/75	2/25/75			2/24/75			
176	1/24/75	2/3/75	2/10/75		2/10/75				

Standard sheet for Senate House Bills and Resolutions

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
FEBRUARY 3, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:40 a.m. in room 405 of the Capitol Building.

The following bills were heard: SB 176
SB 206
SB 175

SB 176 Senator Galt, District 23 and sponsor of the bill, stated this act will provide that severed mineral interests will return to the land owner if abandoned or left for several years. If the owner registers them within three years or takes any action on them within the last 25 years, they will remain in his name for 25 years.

Rep. Alvin Hageman, District 72, spoke in support of the bill. He cited the example of his own land, the mineral rights having been sold in the 1930s. His section is lying dormant while activity is going on all around him due to the mineral rights being so fractioned and scattered.

Bill Romine, representing the Montana Mining Association presented his written testimony in support of the bill. (attached)

P.L. MacDonald, representing the Anaconda Company, supported the bill but asked that it be amended to exlude hard rock minerals.

OPPONENTS

Lester Loble II, representing the Montana Dakota Utilities Company, stated he opposed the bill due to a situation in eastern Montana where gas storage rights have been leased from both mineral and surface owners. He felt they could lose the storage because they own neither the surface or mineral rights.

SB 206 Senator Thiessen, District 27, and sponsor of the bill, stated the bill would provide sovereign immunity in limited cases.

Jack Crosser, Deputy Director of the Department of Administration, stated this bill is an attempt to reach a middle ground between total lack of immunity abd total immunity. Certain governmental functions such as medical emergencies and resuce operations must be immune. The Department wrote the bill and urged support of it.

Dean Zinnecker, representing the Montana Association of Counties, spoke in support of the bill and presented the attached statement.

Joe DeLong, Flathead County Commissioner, and Vice President of the Association of Counties, urged support of the bill.

Dan Meissner, representing the League of Cities and Towns, stated that group endorses the bill and urges its passage.

Larry Heggen, representing the city of Missoula, urged support of the bill, citing a special interest in the safety provisions.

Doris Dietzen, representing the Secretary of State, presented her written testimony (attached).

Ray Conger, representing the Montana Chapter of CPLU, and the Independent Insurance Agents supported the bill, stating he feels it provides the state the immunity it is entitled to but a private citizen is not.

Mike Young, an attorney with the Department of Administration, stated the bill exempts government entities, not employees.

SB175 Senator Brown, District 10, and sponsor of the bill, stated the purpose of the bill is to require a permit to change a lakeshore by constructing channels and ditches, dredging, lagooning, and filling. Work done without a permit may have to be restored and intentional destruction would result in a fine and imprisonment.

Chuck Abell, representing the Whitefish City-County Planning Board, presented testimony and pictures concerning work done in the Whitefish Lake area. He statedthe concern of the populace with the preservation of the lake area.

Jim Posewitz, representing the Montana Fish and Game Department, presented pictures of development on Swan Lake and cited examples of many lakes and damage done to them.

Donald E. Hedman, a lakefront owner, stated he helped write the bill and had submitted some amendments to Senator Brown for further consideration of the Committee (attached).

Mel Wollan, Chairman, Flathead County Commissioners, stated his support of the bill and the amendments by Mr. Hedman.

Everett Snortland, Executive Legislative Director of the Montana Farm Bureau, presented his written testimony (attached).

Phil Tawney, representing the Environmental Information Center, supported the bill but pointed out a change needed to be made in the effective date.

Joe DeLong, Montana Association of Counties strongly supported the bill.

Dan Meissner, representing the League of Cities and Towns, endorsed the bill stating many cities are concerned by the turpidity of their water supply and that filtration processes are hared to handle in many areas.

Richard Weddle, representing the Planning Division of IGR, presented amendments regarding Planning Boards to the Committee. (attached)

Gene Spildee, representing the Sweetgrass Preservation Association, supported the bill as amended by IGR.

Bill Sternhagen, representing the Anaconda Company and himself stated he supports the bill with amendments of IGR as it is not a simple bill and includes such provisions as hearings, environmental impact statements, planning boards, and variance. He would favor a DO NOT PASS as the bill is written but does favor the intent of the bill.

OPPONENTS

Bill Romine, representing the Montana Mining Association, presented his written testimony to the Committee (attached).

There being no further business, the meeting adjourned to reconvene Tuesday, February 4, at 9:30 a.m.

Thomas E. Ellis
Chairman

ROLL CALL

Judiciary COMMITTEE

44th

~~SECOND HALF~~ - ~~43rd~~ LEGISLATIVE SESSION 1975 Date _____

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	x		
Joe R. Roberts	x		
V. E. Cetrone	x		
Margaret S. Warden	x		
Robert J. Brown	x		
Glen L. Drake	x		
Jean A. Turnage	x		
Michael Greely	x		

013

Each day attach to minutes

NAME: Chuck Fox DATE: 2-3-75

ADDRESS: Box 37 Whitefish Montana

PHONE: 862-3525 862-2883

REPRESENTING WHOM? Whitefish City-Co. Planning Board

APPEARING ON WHICH PROPOSAL: 125

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE? _____

COMMENTS: Wish to see less on Back ground of this hill development.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Lowell E Hedman DATE: 2-3-15

ADDRESS: P O Box 893, Whitefish, MT

PHONE: (406) 862-4090 - 862-3697

REPRESENTING WHOM? Individual Lakefront Owner

APPEARING ON WHICH PROPOSAL: SB 175

DO YOU: SUPPORT? X AMEND? ← OPPOSE? _____

COMMENTS: I support the bill, as is, but have an amendment or two which may make it better.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Proposed Amendments

Amend page 1, section 1, line 16.
Following: "lakes"
Insert: "in present and future generations, and that areas which fall within the bounds of high water and low water are affected with a public interest by virtue of the ownership by the people of the state of Montana of said waters."

Amend page 1, section 1, line 19.
Following: "lakes"
Insert: "and these lakes and lakeshore areas"

Amend page 3, section 3, line 10.
Following: "lagooning"
Strike: "and"

Amend page 3, section 3, line 11.
Following: "filling"
Insert: "construction of docks, breakwaters, marinas and other buildings, or such other development as falls within the scope of this act."

Amend page 5, section 6, line 17.
Following: "statutes"
Insert: ", or may grant such permit conditionally"

Amend page 6, section 8, line 3.
Following: "8"
Insert: "(1)"

Amend page 6, section 8, line 7.
Following: "court"
Insert: "(2) any work or development authorized or approved under this act shall not create any vested property rights in such permitted development, other than in the physical structure, if any, so developed."

Amend page 6, section 8.
Following:
Insert: "Section 9. If a given lake, as defined by this act, shall come under the jurisdiction of more than one governing body, then such governing bodies are empowered and encouraged to enter into appropriate agreements to effectuate the purposes of this act, and establish compatible criteria for denial or issuance of permits."

(2)

NAME: Mark Wallin DATE: 2/3/15

ADDRESS: Chairman Board of Co Commissioners

PHONE: None this year

REPRESENTING WHOM? Co Assn

APPEARING ON WHICH PROPOSAL: SB 175

DO YOU: SUPPORT? yes AMEND? yes OPPOSE? _____

COMMENTS: I have (2) two other Declarations present.

(1) Chuck Wells

(3) Steve Hedman

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY ON SENATE BILL 175
SENATE JUDICIARY COMMITTEE
February 3, 1975

Mr. Chairman, Members of the Committee, my name is Everett Snortland. I am the Executive Legislative Director of the Montana Farm Bureau. I am here this morning to support Senate Bill 175 with an amendment. The amendment we propose is in Section 5, line 10. We would ask that the words "local board of" be striken and the words "Board of county commissioners" be inserted in its place.

Mr. Chairman, Members of the Committee, the Montana Farm Bureau Federation is pleased to be able to support the principles contained in SB 175. As you know, the Montana Farm Bureau has been for quite some time interested in land use planning and we have been attempting to find a solution to the problems that are inherent with land use planning. We feel as though Senator Brown has found a solution to the Stream Preservation Act with SB 175. We believe there can be no question but what there are problems relative to the shorelines of our major lakes which are used for recreational purposes.

We also feel that SB 175 contains the principles that we have been promoting for a considerable length of time, that being local control. As you know, there were a series of nine regional land use conferences throughout the State of Montana during 1974 which culminated in Great Falls where representatives of the nine regions came together for the purpose of indicating what the majority of opinion was in their region. All nine regions without exception proclaimed local control as being first and foremost in any land use legislation.

Mr. Chairman, Members of the Committee, we are indeed elated to say the least to see that local control is of the utmost importance in SB 175. We would hope that other land use measures that are before this legislative body during this legislative session, will incorporate the same principles.

Mr. Chairman, we ask that this committee concur with SB 175.

Amendments to SB 175 proposed by the Planning Division/I.G.R.

Senate Bill No. 175 - Introduced Bill (white copy)

1. Amend page 2, section 2, line 9
   Following: "A"
   Strike: "board of county"
   Insert: "governing body"

2. Amend page 2, section 2, line 10
   Strike: "commissioners"

3. Amend page 3, section 4, lines 12 through 18
   Strike: lines 12 through 18 in their entirety
   Insert: "Section 4. Criteria for issuance of permits. (1) Before January 1, 1976, every governing body having jurisdiction over an area containing a lake shall adopt regulations, in the form of criteria, for the issuance or denial of permits for work in lakes. Where a planning board has been created under section 11-3801 for an area containing a lake, the governing body shall seek the recommendations of the planning board as to the regulations to be adopted under this act."

4. Amend page 4, section 5, line 24
   Following: "body."
   Strike: "If the"

5. Amend page 4, section 5, line 25
   Strike: line 25 in its entirety

6. Amend page 5, section 5, line 1
   Strike: line 1 in its entirety

7. Amend page 5, section 5, line 2
   Following: "The"
   Strike: "planning board"
   Insert: "governing body"

8. Amend page 5, section 5, line 5
   Following "before"
   Strike: "the board"
   Insert: "it"

9. Amend page 5, section 5, line 5
   Following: "conclusion."
   Strike: "The board shall"

10. Amend page 5, section 5, lines 6 through 11
Strike: lines 6 through 11 in their entirety
Insert: "Where a planning board has been created under section 11-3801 for the area containing the lake in question, the governing body shall seek the recommendation of the planning board as to the compliance of the proposed work with the criteria for the issuance of a permit."

11. Amend page 5, section 6, lines 13 through 20
Strike: Lines 13 through 20 in their entirety
Insert: "body. Unless the applicant agrees to an extension of time, the governing body shall grant or deny permission for the work within ninety (90) days of receiving an application for a permit. If the governing body finds that the proposed work conforms to the criteria for issuing a permit it shall issue a permit. If the governing body finds that the work does not conform to the criteria, it shall either deny the application or grant a variance from the regulations and issue a permit.

SENATE BILL NO. 175

Mr. Chairman and members of the Committee, my name is William L. Romine and I represent the Montana Mining Association.

We do not oppose passage of Senate Bill 175, but do request that the bill be amended to specifically provide that a lake which is totally surrounded by private property is excluded from the operations of the act.

There may be instances where a miner or others will build or maintain a lake on provate property and it would appear to me that requiring the owner of that lake to comply with Senate Bill 175 would be inappropriate. We feel that the state should not become involved in private property rights, and direct individuals as to what they can do on their own provate property.

With this amendment, we have no objections to Senate Bill No. 175.

WILLIAM L. ROMINE

AMENDMENT TO SENATE BILL 175

Amend the introduced bill on line 13, page 2, following the period by adding the following language:

"This act shall not apply to a lake which is owned by a private person."

TESTIMONY ON SENATE BILL 175 : SUPPORT

TO THE COMMITTEE:

MY NAME IS NANCY LEIFER AND FOR THE LAST 18 MONTHS I HAVE LIVED AND WORKED IN THE FLATHEAD, FIRST AS A FIELD RESEARCHER FOR THE DNR ON WATER PLANNING, THEN ON A SPECIAL PROJECT WITH THE COUNTY EXTENSION OFFICE ON LOCAL GOVERNMENT AND CITIZENSHIP. THIS WORK HAS BROUGHT ME INTO CLOSE CONTACT AND UNDERSTANDING WITH COUNTY COMMISSIONERS, PLANNING BOARDS, ENVIRONMENTAL GROUPS AND CONCERNED CITIZENS OF BOTH FLATHEAD AND LAKE COUNTIES. I HAVE SEEN ATTEMPTS IN THE PAST TO ADDRESS THE PROBLEMS OF LAKE-SHORE AREAS FAIL DUE TO A LACK OF AUTHORITY ON THE PART OF LOCAL GOVERNMENT. I HAVE SHARED THE FRUSTRATIONS OF CONCERNED CITIZENS IN SEEKING SOLUTIONS TO THEIR OWN, LOCAL, SPECIFIC PROBLEMS, CITIZENS UNWILLING TO TRUST THE FUTURE OF THEIR AREAS TO HELENA, FOR NUMEROUS REASONS.

THIS BILL HAS BEEN WORKED OUT WITH THE HELP OF THESE CITIZENS. I BELIEVE THAT IT DOES ANSWER THEIR NEED, AND WILL PROVIDE THEM WITH A FRAMEWORK IN WHICH TO SAFEGUARD THEIR SHORELINES IN THE FUTURE. THIS BILL WILL PROVIDE A BASIS OF AUTHORITY FOR LOCAL GOVERNMENT TO ADDRESS THE QUESTIONS OF LAKE SHORE DEVELOPMENT, AND DOES SO IN A WAY AS TO PROVIDE THE VIEWS OF PEOPLE LIVING IN THE AREAS TO PLAY A MAJOR ROLE.

I SUGGEST FURTHER THAT SOME PROVISION BE PLACED IN THE BILL TO ENSURE THAT PLANNING BOARDS BE WELL INFORMED OF ITS PROVISIONS, AND THAT THEY BE ENCOURAGED TO CONTINUE SPREADING INFORMATION OF ITS PROVISIONS TO THE PEOPLE OF THEIR AREAS.

NANCY LEIFER

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
FEBRUARY 6, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:43 a.m., in room 442 of the Capitol Building.

The following bills were discussed: SB 219
SB 226
SB 287
SB 288
SB 175
SB 200
SB 172
SB 189

SB 287 Senator Lynch, District 42 and sponsor of the bill, stated the bill was written at the request of the Department of Planning, IGR, but they have since withdrawn support of the bill.

SB 288 Senator Lynch, District 42 and sponsor of the bill, stated the bill was not drafted by Legislative Council as he had wished and therefore he was hesitant about urging its passage.

Chad Smith, representing the American Mutual Insurance Alliance, stated opposition to the bill. He felt it is nearly impossible to define where to draw the line in regard to practicing law procedures as it is stated in the bill and therefore makes it very difficult to enforce. He would also recommend striking subsection (5) entirely.

SB 219 Senator Fasbender, District 17 and sponsor of the bill, stated there has been disagreement over who should handle the recodification and recompilation of the Codes. This bill endeavors to set the procedures for codification, a house bill, the second part of SB 219, determines who shall be in charge of the codification. He felt the codifier should be in the legislative branch.

SB 226 Senator Turnage, District 13 and sponsor of the bill, stated this bill revises the Code by selection and supervision of the Code Commission by the Supreme Court.

Representative James Moore, District 18, spoke to the bill stating he is not opposed to the substance of the bill but feels from a purist standpoint, the Supreme Court could have a conflict of interest in this case. He is sponsoring HB 183 which establishes a Commission composed of representatives from all segments.

The public hearing was closed and the Committee met in Executive Session.

SB 287 SENATOR TURNAGE MOVED SB 287 DO NOT PASS. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

SB 288 SENATOR TURNAGE MOVED SB 288 DO NOT PASS. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

SB 175 Senator Towe assigned SB 175 to a subcommittee comprised of Senator Roberts, Senator Brown, and Senator Cetrone. They will study the amendments submitted and formulate them into a package for consideration of the Committee.

SB 206 Senator Towe asked the Committee Researcher, Pat Driscoll, to look into the distinction between bodily injury and property damage vs the intangible damages aspect of the bill.

SB 172 Senator Lynch will check into the California law re the explanation and meaning of an issue on the ballot and also will check to see if a similar bill has been introduced.

SB 189 Senator Greely moved to amend the title and strike section 7. He withdrew the motion and the Committee Researcher, Pat Driscoll, was asked to check HB 298 and do a comparison for the Committee.

There being no further business, the meeting adjourned to reconvene Friday, February 7, at 9:30 a.m.

Chairman

ROLL CALL

Judiciary COMMITTEE

44th

~~SECOND HALF~~ - ~~43rd~~ LEGISLATIVE SESSION 1975 Date 7/

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	x		
Joe R. Roberts	x		
V. E. Cetrone	x		
Margaret S. Warden	x		
Robert J. Brown	x		
Glen L. Drake	x		
Jean A. Turnage	x		
Michael Greely	x		

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Each day attach to minutes

MINUTES OF THE MEETING
SENATE JUDICIARY COMMITTEE
FEBRUARY 24, 1975

The meeting was called to order by Senator Towe, Chairman, at 8:10 P.M. in Room 442 of the Capitol Building. The Committee met in Executive Session with all members present.

The following bills were discussed:

SB 49	SB 226
HB 187	SB 219
SB 393	SB 175
SB 268	SB 390
SB 125	SB 223
HB 183	

EXECUTIVE SESSION

SB 49 -- Senator Turnage moved SB 49 do not pass. WITH SENATORS ROBERTS, TOWE, GREELY AND WARDEN VOTING NO, THE MOTION FAILED ON A ROLL CALL VOTE.

Senator Turnage asked that the attached letter from the Board of Real Estate be attached to the minutes as Exhibit A.

Senator Drake moved the Committee introduce a self-executing full disclosure bill. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Greely moved SB 49 do not pass. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

HB 187 -- Senator Drake moved HB 187 be not concurred in. Senator Turnage seconded the motion. WITH SENATORS GREELY AND ROBERTS VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

SB 393 -- Senator Roberts moved SB 393 do not pass. As a substitute motion Senator Cetrone moved to amend the bill. As a substitute motion Senator Towe moved that SB 393 do pass. Senator Drake made a substitute motion to strike section 1 and rewrite the title, and to amend sections 2 and 3 to eliminate reference to section 70-703 and the Human Rights Commission. He further moved to amend section 4 by striking everything after line 10. WITH SENATOR BROWN VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Towe moved SB 393 as amended do pass. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATORS GREELY AND ROBERTS VOTING NO.

SB 268 -- Senator Roberts moved SB 268 do not pass. As a substitute motion, Senator Turnage moved to amend page 1, line 25, page 2, line 1, following "party" by striking "a member of the same political party". THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATOR BROWN VOTING NO.

SB 268 -- Senator Greely moved to strike section 4 in its entirety and insert new language (See attached Committee Report). THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved SB 268 do pass as amended. WITH SENATORS TOWE AND ROBERTS VOTING NO, THE MOTION CARRIED.

SB 125 -- Senator Drake moved to amend page 8, line 16 by striking the second "if"; page 9, lines 11 and 12, by striking "of not longer than one hundred twenty (120) days"; and page 12, lines 4 and 5 by striking ", by not less than two-thirds of the members of the council". THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved SB 125 do pass as amended. As a substitute motion, Senator Greely moved SB 125 do not pass as amended. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATORS DRAKE, BROWN AND TURNAGE VOTING NO.

HB 183 -- Senator Brown moved HB 183 do pass. As a substitute motion
SB 219 Senator Greely moved SB 219 do pass. THE MOTION CARRIED
SB 226 UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Brown withdrew his motion on HB 183 and the Committee agreed to let HB 183 and SB 226 sit in committee.

SB 390 -- Senator Turnage moved to pass consideration of SB 390. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

SB 175 -- Senator Drake moved amendments 8, 9, 11, 12, 14, 16, 23, 27 and 28 on the attached Committee Report. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Towe moved adoption of amendments 7, 15, 17, 18, 19 and 20 on the attached Committee Report. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Greely moved to adopt amendments 1, 2, 3, 4, 5, 6, 13, 21, 22, 24, 25 and 26 on the attached Committee Report. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATOR DRAKE VOTING NO.

Senator Brown moved SB 175 do pass as amended. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

SB 223 -- Senator Warden moved the bill be amended by striking everything following the enacting clause and inserting the new language as prepared by the Committee Researcher, Pat Driscoll. She also moved two title amendments (See attached Committee Report). THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved SB 223 do pass as amended. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

There being no further business, the meeting adjourned to reconvene February 25, 1975.

Thomas E. Towe, Chairman

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ - 44th LEGISLATIVE SESSION 1975 Date 2/24/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

030

Each day attach to minutes

SENATE COMMITTEE JUDICIARY

Date 2/24/75 Senate Bill No. 175 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Rikyans
Secretary

Thomas E. Towe
Chairman

Motion: By Senator Drake to adopt amendments 8, 9, 11, 12, 14, 16, 23, 27 and 28 on the attached committee report.

(include enough information on motion—put with yellow copy of committee report.)

031

SENATE COMMITTEE JUDICIARY

Date 2/24/75 Senate Bill No. 175 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Rokyans
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Towe to adopt amendments 7, 15, 17, 18, 19, and 20 as per attached Committee report.

(include enough information on motion—put with yellow copy of committee report.)

032

SENATE COMMITTEE JUDICIARY

Date 2/24/75 Senate Bill No. 175 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE		X
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Robyans
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Greely to adopt amendments 1, 2, 3, 4, 5, 6, 13, 21, 22, 24, 25 and 26 on the attached committee report.

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 2/24/75 Senate Bill No. 175 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Eskeyans
Secretary

Thomas E. Towe for
Chairman

Motion: by Senator Brown that SB 175 do pass as amended.

(include enough information on motion—put with yellow copy of committee report.)

034

12. Amend page 5, section 7, line 3.
Following: line 3
Insert: "(3)"

13. Amend page 5, section 8, line 19.
Following: "($15)"
Insert: "or forty dollars ($40)"

And as so amended, do pass.

TOWE, Chairman

Report adopted.

Mr. President: We, your Committee on Judiciary, having had under consideration Senate Bill No. 175, respectfully report as follows: That Senate Bill No. 175, introduced bill, be amended as follows:

1. Amend page 2, section 2, lines 1 through 5.
Following: "lakeshore,"
Strike: "occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area),"

2. Amend page 2, section 2, line 5.
Following: "least"
Strike: "one"
Insert: "two"

3. Amend page 2, section 2, line 6.
Following: "hundred"
Strike: "sixty (160)"
Insert: "(200)"

4. Amend page 2, section 2, line 8.
Following: "Survey,"
Insert: "not used exclusively for agricultural purposes,"

5. Amend page 2, section 2, lines 9 and 10.
Following: "A"
Strike: "board of county commissioners"
Insert: "local governing body"

6. Amend page 2, section 2, line 11.
Following: "to"
Insert: "natural"

7. Amend page 3, section 4, lines 12 through 18.
Following: "permits."
Strike: lines 12 through 18 in their entirety
Insert: "(1) Before January 1, 1976, every governing body having jurisdiction over an area containing a lake shall adopt regulations, in the form of criteria, for the issuance or denial of permits for work in lakes. Where a planning board has been created under section 11-3801 for an area containing a lake, the governing body shall seek the recommendations of the planning board as to the regulations to be adopted under this act."

8. Amend page 3, section 4, line 22.
Following: "(a)"
Insert: "materially"

2-26-75

9. Amend page 3, section 4, line 23.
Following: "(b)"
Insert: "materially"

10. Amend page 4, section 4, line 3.
Following: "the"
Strike: "planning board"
Insert: "local governing body"

11. Amend page 4, section 4, line 4.
Following: line 4
Insert: "(3) The local governing body may provide a summary procedure to permit work which it finds has a minimal or insignificant impact on a lakeshore."
Renumber: all subsequent subsections

12. Amend page 4, section 4, lines 13 through 15.
Following: "(5)"
Strike: "if a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the"
Insert: "The"

13. Amend page 4, section 4, line 16.
Following: "may"
Insert: ","

14. Amend page 4, section 4, line 17.
Following: "owners"
Insert: "or thirty percent (30%) of the owners"

15. Amend page 4, section 4, line 17.
Following: "land"
Strike: "along"
Insert: "abutting"

16. Amend page 4, section 4, line 17.
Following: "lake"
Insert: ", whichever is greater,"

17. Amend page 4, section 4, lines 24 through line 1 on page 5.
Following: "body."
Strike: lines 24 through line 1 on page 5 in their entirety
Insert: "Where a planning board has been created under section 11-3801 for the area containing the lake in question, the governing body shall seek the recommendation of the planning board as to the compliance of the proposed work with the criteria for the issuance of a permit."

18. Amend page 5, section 5, line 2.
Following: "shall"
Strike: "determine"
Insert: "report its recommendations to the governing body as to"

19. Amend page 5, section 5, line 5.
Following: "before the board"
Strike: "reaches a conclusion"
Insert: "reports its recommendation"

20. Amend page 5, section 5, lines 5 through 8.
Following: "conclusion."
Strike: "The board shall report its findings to the governing body within three (3) months of receiving an application, unless for cause the governing body extends this time."

0135

Approved by Committee
on Judiciary

SENATE BILL NO. 175

INTRODUCED BY BROWN, ROBERTS, DRAKE, WATT

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROTECT LAKESHORES BY REQUIRING A PERMIT FOR ANY WORK WHICH WOULD ALTER OR DIMINISH A LAKE; REQUIRING LOCAL GOVERNING BODIES TO ADOPT REGULATIONS GOVERNING THE ISSUANCE OF SUCH PERMITS; PROVIDING FOR VARIANCES, JUDICIAL REVIEW, AND FUNDING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Declaration of policy. The legislature finds and declares that the natural lakes of Montana are high in scenic and resource values and that the conservation and protection of these lakes is important to the continued value of lakeshore property as well as to the state's residents and visitors who use and enjoy the lakes. The legislature further declares that local governments should play the primary public roles in establishing policies to conserve and protect lakes. Local governments do not have adequate statutory powers to protect their lake areas, and it is the purpose of this act to confer such powers on local governments, provided that such powers are exercised to maintain public health, welfare, and safety.

Section 2. Definitions. As used in this act--

(1) "Lake" means a body of standing water, and the

SECOND READING

area within its lakeshore, ~~occurring-naturally-rather-than-by-virtue-of-constructed-impoundments--(although--a--natural-lake--whose--level--is-raised-and-whose-area-is-increased-by-the-construction-of--impoundments--includes--the--additional-level-and-area),~~ having a water surface area of at least ~~one~~ TWO hundred ~~sixty--(160)~~ (200) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, NOT USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES, and navigable by canoes and small boats. A ~~board--of--county--commissioners~~ LOCAL GOVERNING BODY may by resolution change the minimum size in the definition of a lake so that this act may apply to NATURAL lakes in the county no smaller than twenty (20) acres in water surface area.

(2) "Lakeshore" is the perimeter of a lake when the lake is at mean annual high water elevation.

(3) "Mean annual high water elevation" is the mean average of the highest elevation of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. A highest elevation caused by operation of a dam or other impoundment counts toward the establishment of the mean annual high water elevation.

(4) "Local governing body" or "governing body" is that unit of local government authorized to administer the

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Montana Subdivision and Platting Act on the land adjoining a lake or part of a lake subject to this act.

Section 3. Work for which permit required. A person who proposes to do any work which will alter or diminish the course, current, or cross-sectional area of a lake must first secure a permit for the work from the local governing body. Without limitation, the following activities are, when conducted below mean annual high water elevation, examples of work for which a permit is required: construction of channels and ditches; dredging of lake bottom areas to remove muck, silt, or weeds; lagooning; and filling.

Section 4. Criteria for issuance of permits. ~~(1) A planning board created under section 11-3801 for an area containing a lake shall propose, before January 1, 1976, regulations governing the issuance of permits for work in lakes. The governing body or bodies shall adopt these regulations in the form of criteria for the issuance or denial of permits.~~ (1) BEFORE JANUARY 1, 1976, EVERY GOVERNING BODY HAVING JURISDICTION OVER AN AREA CONTAINING A LAKE SHALL ADOPT REGULATIONS, IN THE FORM OF CRITERIA, FOR THE ISSUANCE OR DENIAL OF PERMITS FOR WORK IN LAKES. WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR AN AREA CONTAINING A LAKE, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATIONS OF THE PLANNING BOARD AS TO THE REGULATIONS

TO BE ADOPTED UNDER THIS ACT.

(2) The regulations shall favor issuance if the proposed work will not, during either its construction or its utilization:

(a) MATERIALLY diminish water quality,

(b) MATERIALLY diminish habitat for fish or wildlife,

(c) interfere with navigation or other lawful recreation,

(d) create a public nuisance, or

(e) create a visual impact discordant with natural scenic values, as determined by the ~~planning board~~ LOCAL GOVERNING BODY, where such values form the predominant landscape elements.

(3) THE LOCAL GOVERNING BODY MAY PROVIDE A SUMMARY PROCEDURE TO PERMIT WORK WHICH IT FINDS HAS A MINIMAL OR INSIGNIFICANT IMPACT ON A LAKESHORE.

~~(3)~~ (4) A governing body whose area contains more than one lake may adopt regulations in differing form for the various lakes, recognizing the physical and social differences between lakes.

~~(4)~~ (5) The requirements of subsection (2) of this section are minimum requirements and do not restrict a local governing body from adopting such stricter or additional regulations as may be authorized by other statutes.

~~(5)~~ (6) ~~If a local governing body has not adopted~~

~~regulations--in--compliance--with--subsection--(1)--of--this section-on-January-1,-1976,-the~~ THE department of natural resources and conservation may, upon petition of five (5) owners OR THIRTY PERCENT (30%) OF THE OWNERS of land ~~along~~ ABUTTING a lake, WHICHEVER IS GREATER, adopt such regulations for the particular lake. The department may then exercise the powers conferred upon a local governing body by this act until the governing body adopts the necessary regulations.

Section 5. Application for permits -- procedure. A person seeking a permit for work in a lake shall apply to the local governing body, and shall pay an application fee of ten dollars ($10) to the governing body. ~~If-the-governing body-has-or--is--participating--in--a--planning--board,--the application-shall-be-referred-to-the-planning-board.~~ WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR THE AREA CONTAINING THE LAKE IN QUESTION, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATION OF THE PLANNING BOARD AS TO THE COMPLIANCE OF THE PROPOSED WORK WITH THE CRITERIA FOR THE ISSUANCE OF A PERMIT. The planning board shall ~~determine~~ REPORT ITS RECOMMENDATIONS TO THE GOVERNING BODY AS TO whether the proposed work conforms to the criteria for issuance of a permit, and may require the applicant to submit additional information before the board ~~reaches-a conclusion~~ REPORTS ITS RECOMMENDATIONS. ~~The--board--shall~~

~~report--its--findings-to-the-governing-body-within-three-(3) months-of-receiving-an-application,--unless--for--cause--the governing-body-extends-this-time.~~ In areas where a planning board is not established, the functions of a planning board under this section shall be exercised by the local ~~board--of health~~ GOVERNING BODY.

Section 6. Consideration of applications by governing body. ~~When--a--planning--board--finds--that--proposed--work conforms--to--the--criteria--for-issuing-a-permit-under-this act,--the--governing--body--shall--approve--or--reject---the application-depending-upon-its-compliance-with-all-pertinent rules--and--statutes.---When--a--planning--board--finds-that proposed-work--does--not--conform--to--these--criteria,--the governing-body-may-not-approve-the-application-without-first granting--to--the-applicant-a-variance-from-the-regulations.~~ UNLESS THE APPLICANT AGREES TO AN EXTENSION OF TIME, THE GOVERNING BODY SHALL GRANT OR DENY PERMISSION FOR THE WORK WITHIN NINETY (90) DAYS OF RECEIVING AN APPLICATION FOR A PERMIT. IF THE GOVERNING BODY FINDS THAT THE PROPOSED WORK CONFORMS TO THE CRITERIA FOR ISSUING A PERMIT IT SHALL ISSUE A PERMIT OR CONDITIONAL PERMIT. IF THE GOVERNING BODY FINDS THAT THE WORK DOES NOT CONFORM TO THE CRITERIA, IT SHALL DENY THE APPLICATION.

Section 7. Variance procedure. A governing body which proposes to grant a variance from its regulations under this

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act shall first prepare an environmental impact statement at the expense of the applicant which conforms to the requirements of ~~the--Montana--Environmental--Policy--Act~~ REGULATIONS ADOPTED PURSUANT TO THIS ACT, distribute this statement to interested residents, and conduct a public hearing on the proposed action.

Section 8. ~~Removing--work--undertaken--without--permit.~~ (1) A person who performs work in a lake after the effective date of this act without a permit for that work shall, IF REQUIRED BY THE LOCAL GOVERNING BODY OR THE DISTRICT COURT, restore the lake to its condition before he disturbed it~~,--upon--order--of--the--governing--body--or--the district-court~~.

(2) WORK OR DEVELOPMENT AUTHORIZED OR APPROVED UNDER THIS ACT SHALL NOT CREATE A VESTED PROPERTY RIGHT IN THE PERMITTED DEVELOPMENT, OTHER THAN IN THE PHYSICAL STRUCTURE, IF ANY, SO DEVELOPED.

SECTION 9. IF A LAKE, AS DEFINED BY THIS ACT, IS LOCATED UNDER THE JURISDICTION OF MORE THAN ONE GOVERNING BODY, THE GOVERNING BODIES ARE EMPOWERED AND ENCOURAGED TO ENTER INTO AGREEMENTS TO EFFECTUATE THE PURPOSES OF THIS ACT, AND ESTABLISH COMPATIBLE CRITERIA FOR DENIAL OR ISSUANCE OF PERMITS.

Section 10. Judicial enforcement and review. The district court may hear and decide the following cases

arising under this act within the district:

(1) A complaint and petition of a governing body or an interested person for an order to restore a lake to its previous condition or to enjoin further work in a lake.

(2) A petition of an interested person for review of a final action of a governing body upon an application for a permit.

(3) A petition of an interested person for review of an action of a governing body in adopting or amending regulations.

Section 11. Penalty. A person who violates an order issued under this act or who knowingly violates a regulation made under this act commits a misdemeanor, and on conviction may be sentenced to thirty (30) days in the county jail or fined five hundred dollar ($500), or both. Fines collected under this section shall be paid to the general fund of the county where the offense was committed for the purpose of administering this act.

Section 12. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Funding. In compliance with section

43-517, R.C.M. 1947, the administration of this act is declared a public purpose of a city or county which may be paid out of permit application fees collected under section [5 of this act] and federal revenue sharing moneys.

-End-

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And as so amended, do pass. Opposed by Etchart, Galt, Mathers, Nelson, Olson, Roskie, Thiessen.

That Senate Bill No. 245 do pass. Unanimously passed.

That consideration of Senate Bill No. 265 be passed. Unanimously passed.

That Senate Bill No. 268 do pass. Opposed by Blaylock, Colberg, Devine, Fasbender, Greely, Healy, Mehrens, Regan, Roberts, Romney, Thiessen, Towe, Warden.

That Senate Bill No. 273 be amended as follows:

1. Amend page 4, section 4, line 12.
Following: "as"
Strike: "timberland"
Insert: "open space parcels or small woodlots"

2. Amend page 4, section 4, line 19.
Following: "space"
Strike: "or timberland"
Insert: "parcels or small woodlots"

And as so amended, do pass. Opposed by Roskie.

That Senate Bill No. 275 be amended as follows:

1. Amend page 9, section 4, line 10.
Following: "appeals."
Insert: "The results of the ballot shall be made public."

2. Amend page 15, section 7, line 7.
Strike: "."
Insert: ", except as provided in Section 59-1603 (5) R.C.M. 1947."

3. Amend page 16, section 8, lines 17 through 22.
Following: (3)
Strike: lines 17 through 22 in their entirety
Insert: "Nothing in this act prevents any aggrieved party, in the event of a strike or lockout, from proceeding under chapter 42 of Title 93, R.C.M. 1947."

And as so amended, do pass. Opposed by Aber, Boylan, Brown, Etchart, Galt, Goodover, Himsl, Kolstad, Manning, Nelson, Olson, Roskie, Stephens, Turnage.

Senator Graham relinquished the Chair.

Senator Towe in the Chair.

That Senate Bill No. 310 be amended as follows:

1. Amend page 1, section 2, lines 24 through line 1 on page 2.
Following: "state"
Strike: "to protect land and property from stream meandering and flooding;"

(Amendment opposed by Boylan, Drake, Etchart, Flynn, Galt, Graham, Himsl, Kolstad, Lynch, McCallum, Manley, Manning, Mathers, Nelson, Olson, Roskie, E. Smith, Stephens, Story, Turnage.)

2. Amend page 9, section 12, lines 8 and 9.
Following: "court"
Insert: "."

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Strike: "as provided in the Montana Administrative Procedure Act."

(Amendment opposed by Colberg, Fasbender, Foster, Greely, Healy, Jergeson, Lee, Mehrens, Norman, Regan, Roberts, R. Smith, Warden, Watt)

And as so amended, do pass. Opposed by Aber, Boylan, Etchart, Galt, Graham, Kolstad, Manley, Manning, Nelson, Olson, Stephens.

That Senate Bill No. 332 do pass. Opposed by Blaylock, Cetrone, Colberg, Drake, Fasbender, Greely, Healy, Kolstad, Lee, Norman, Regan, Romney, Seibel, Warden, Towe.

That the Committee rise and report.

TOWE, Chairman

Upon the motion of Senator Towe, duly carried, the foregoing report of the Committee of the Whole was adopted.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

The following committees submitted the following reports:

Mr. President: We, your Committee on Bills, to whom were referred: Senate Bills Nos. 29, 125, 245, 257, 268, 332, beg leave to report the same back considered correctly engrossed.

DEVINE, Chairman

Mr. President: We, your Committee on Bills, to whom were referred: Senate Bills Nos. 273, 275, 306, 310, beg leave to report the same back correctly engrossed.

DEVINE, Chairman

MOTIONS

Upon motion of Senator Lynch, duly carried, that the rules of the Forty-fourth Legislature be temporarily suspended in order to allow the following bills to be placed on Third Reading for consideration this Legislative Day: Senate Bills Nos. 29, 125, 245, 257, 268, 273, 275, 306, 310, 332.

Upon motion of Senator Lynch, duly carried, that consideration of Senate Bill No. 175 on Second Reading be passed for this Legislative Day.

THIRD READING OF BILLS

Senate Bill No. 29, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Colberg, Conover, Devine, Drake, Dunkle, Etchart, Fasbender, Flynn, Foster, Galt, Graham, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 49.

Noes: None.

Absent and not voting: Goodover. Total 1.

Excused: None

Lester, Dussault, Kelly, Finley, Vincent, Scully: A bill for an act entitled "An act to provide for registration to vote by mail; amending Section 23-3006, R.C.M. 1947; and repealing Sections 23-3722 and 23-3723, R.C.M. 1947." Referred to Committee on Judiciary.

HOUSE BILL NO. 664, introduced by Conroy, Lien: A bill for an act entitled: "An act revising the penalty provisions of the Montana Strip Mining and Reclamation Act; amending Sections 50-1050 and 50-1056, R.C.M. 1947." Referred to Committee on Natural Resources and Fish and Game.

HOUSE BILL NO. 665, introduced by Bardanouve, Meloy, Huennekens: A bill for an act entitled: "An act to require owners of land bordering upon navigable waters to obtain a permit from the Department of Natural Resources and Conservation to build docks and wharves; amending Sections 89-601 and 89-603, R.C.M. 1947; and repealing Section 89-605, R.C.M. 1947." Referred to Committee on Natural Resources and Fish and Game.

HOUSE BILL NO. 699, introduced by Bardanouve, Gerke, Mercer: A bill for an act entitled: "An act to consolidate all functions of state government dealing with addictive diseases in the Department of Institutions; amending Sections 69-6203 and 69-6212." Referred to Committee on State Administration.

HOUSE JOINT RESOLUTION NO. 50, introduced by Murphy, McKittrick, Lester, James Moore, McFadden, Huennekens, Lynch, Tropila: A Joint Resolution of the Senate and the House of Representatives of the State of Montana requesting the Committee on Priorities to assign to the appropriate standing committee a study on the feasibility and desireability of creating a patients attorney position for Montana's mental health care institutions and to have it report its findings together with any proposed legislation to the Forty-fifth Legislature. Referred to Committee on Priorities.

HOUSE JOINT RESOLUTION NO. 53, introduced by Kemmis, Huennekens: A Joint Resolution of the Senate and the House of Representatives of the State of Montana urging the United States Environmental Protection Agency to study the air pollution impact of utilizing Fort Union Basin coal and lignite. Referred to Committee on Natural Resources and Fish and Game.

HOUSE JOINT RESOLUTION NO. 59, introduced by Teague, Vincent, Gunderson, Halvorson, Jack Moore, Harper, O'Connell, Aageson, Underdal, Scully, Guthrie, Lester, James Moore, Sivertsen, Fabrega, Kendall, Federico, Kimble, Travis, Murphy, Wolfe, Brand, McFadden, Jacobsen, Manuel, Luebeck, Thomas, Robbins, Day, Hageman, Helmbrecht: A Joint Resolution of the Senate and the House of Representatives of the State of Montana requesting the Committee on Priorities to consider requesting a joint standing subcommittee to conduct a comprehensive study of the efficiency of all agencies of Montana state government for the purpose of reducing taxes levied on Montana taxpayers. Referred to Committee on Priorities.

HOUSE JOINT RESOLUTION NO. 63, introduced by Richards: A Joint Resolution of the Senate and the House of Representatives of the State of Montana urging the Bonneville Power Administration to prepare an impact study of the Pacific Northwest Hydro-Thermal Planning Program. Referred to Committee on Business and Industry.

HOUSE JOINT RESOLUTION NO. 65, introduced by Asher, Marks, Lockrem, Day, Conroy, Jack Moore, Fabrega, Kropp, Hubing, Babcock, Gould, J. Anderson, Teague, Ellerd, Underdal, Wyrick, Seifert, Manuel, Fagg, Jacobsen, Bertelsen, Lund, Sivertsen, Gwynn, Kummerfeldt, Hager, Johnston, Aageson, Schye, R. Baeth, Ellison, Ellis, Casey, Guthrie, Robbins, Lien, Tropila, Smith, Staigmiller, Kanduch, Barrett: A Joint Resolution of the Senate and the House of Representatives of the State of Montana declaring the Montana State Legislature's unalterable opposition to registration and confiscation of firearms. Referred to Committee on Natural Resources and Fish and Game.

(Material in brackets denotes cancelled type.)

BUSINESS ON SECOND READING

Upon the motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Devine in the Chair. Committee arose.

Senate resumed. President McOmber presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 175 be amended as follows:

1. Amend page 2, section 2, line 1.
Following: "lakeshore,"
Insert: "occuring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area),"

2. Amend page 2, section 2, line 6.
Strike: "two hundred (200)"
Insert: "one hundred sixty (160)"

(Amendments opposed by Cetrone, Greely, Healy, Lee, Lynch, Towe, Warden.)

3. Amend page 7, section 8, line 7.
Following: "Section 8."
Insert: "Restoration - - property rights."

And as so amended, do pass. Unanimously passed.

That Senate Bill No. 265 be amended as follows:

1. Amend page 4, section 1, lines 24 through line 5 on page 5.
Strike: subsection (1) in its entirety
Insert: "(1) It is unlawful for any person to engage in the business, trade, or work having to do with the installation, removal, alteration, or repair of plumbing and drainage systems or parts thereof without first obtaining a permit from the board of plumbers."

2. Amend page 5, section 1, line 21.
Following: "Fixtures."
Insert: "No permit is required where the installation is exempt under the provisions of section 66-2426."

3. Amend page 5, section 1, line 21.
Following: "Fixtures."

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and recorder signed by both spouses and attested to by an officer authorized to administer oaths.

(6) Upon submission of copies of the documents required in subsections (2), (3), (4), and (5) of this section the department of revenue shall determine the inheritance tax due and send a certificate of tax due to the surviving spouse. If there is no tax due the certificate shall be filed with the county clerk and recorder who shall then issue a transfer of title for the property to the surviving spouse. If there is tax due, upon its payment to the county treasurer and filing the receipt therefor with the county clerk and recorder, the clerk and recorder shall transfer title in the property to the surviving spouse.

(7) No surviving spouse is required to hire an attorney to transfer title in the joint tenancy property. If an attorney is hired by the surviving spouse the attorney's fees, including expenses, shall not exceed two percent (2%) of the value of the interest passing to the surviving spouse.

(8) A joint tenancy in property owned by a married couple may be terminated by filing with the county clerk and recorder a document signed by both spouses terminating the joint tenancy or by conveying the property by deed.

Section 2. Section 91A-3-1205, R.C.M. 1947, shall apply only to the termination of joint tenancies between unmarried persons.

Section 3. Section 91-4321, R.C.M. 1947, is repealed.

Section 4. This act is effective on its passage and approval."

(Material in brackets denotes cancelled type.)

(Amendment opposed by Colberg, Drake, Fasbender, Mathers, Nelson, Regan, Roberts, Towe.)

And as so amended, do pass. Opposed by Colberg, Fasbender, Himsl, Mathers, Nelson, Roberts, Towe.

That consideration of Senate Bill No. 369 be passed. Unanimously passed.

That Senate Bill No. 393 be amended as follows:

1. Amend page 3, section 3, line 1.
Following: "personnel."
Insert: "The committee has standing to seek injunctive relief, or any other extraordinary remedy authorized by law, in civil actions to protect citizens' rights. The committee may petition a district court to appoint a special prosecutor separate from and not under the control of the regular prosecuting attorney to prosecute a statutory offense involving an abuse of citizens' civil rights or involving misconduct of a state officer or employee when, in the committee's judgment, the interests of justice warrant such action, and the district court may in its discretion grant such petition."

(Amendment opposed by Aber, Etchart, Galt, Goodover, Hazelbaker, Himsl, Jergeson, Kolstad, McCallum, Manley, Mathers, Nelson, Rosell, Roskie, Stephens, Thiessen.)

And as so amended, do pass. Opposed by Aber, Dunkle, Etchart, Galt, Goodover, Greely, Himsl, Kolstad, McCallum, Nelson, Roberts, Rosell, Roskie, Stephens.

That the Committee rise and report.

Senator Devine moved for adoption of the Committee of the Whole Report.

Senator Romney moved that Senate Bill No. 389 be segregated from the Committee of the Whole Report. Motion failed by the following roll call vote:

Ayes: Blaylock, Cetrone, Colberg, Devine, Fasbender, Flynn, Foster, Greely, Jergeson, Lee, Lynch, Murphy, Norman, Regan, Roberts, Romney, Seibel, R. Smith, Towe, Warden, Watt, Mr. President. Total 22.

Noes: Aber, Boylan, Conover, Drake, Dunkle, Etchart, Galt, Goodover, Hazelbaker, Healy, Himsl, Kolstad, McCallum, Manley, Mathers, Mehrens, Nelson, Olson, Rosell, Roskie, E. Smith, Stephens, Story, Thiessen, Turnage. Total 25.

Absent and not voting: Brown, Manning. Total 2.

Excused: Graham. Total 1.

(Including the following pairs: Lynch, aye — Conover, no; Foster, aye — Turnage, no; Fasbender, aye — Olson, no.)

Upon motion of Senator Devine, duly carried, the report of the Committee of the Whole was adopted.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

The following committees submitted the following reports:

Mr. President: We, your Committee on Bills, to whom were referred: Senate Bills Nos. 377, 401, 402, 404, beg leave to report the same back considered correctly engrossed.

DEVINE, Chairman

Mr. President: We, your Committee on Bills, to whom were referred: Senate Bills Nos. 175, 206, 223, 265, 334, 387, 393, beg leave to report the same back correctly engrossed.

DEVINE, Chairman

MOTIONS

Upon motion of Senator Lynch, duly carried, that the rules of the Forty-fourth Legislature be temporarily suspended in order to allow the following bills to be placed on Third Reading for consideration this Legislative Day: Senate Bills Nos. 175, 206, 223, 265, 334, 377, 387, 393, 401, 402, and 404.

THIRD READING OF BILLS

House Bill No. 105, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Cetrone, Colberg, Devine, Drake, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 44.

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3rd Reading

Noes: None.

Absent and not voting: Brown, Conover, Foster, Manning, Olson. Total 5.

Excused: Graham. Total 1.

House Joint Resolution No. 49, having been read three several times, was concurred in by the following roll call vote:

Ayes: Blaylock, Devine, Dunkle, Etchart, Fasbender, Galt, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mehrens, Nelson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Towe, Warden, Mr. President. Total 31.

Noes: Aber, Boylan, Cetrone, Colberg, Drake, Flynn, Goodover, Mathers, Murphy, Norman, Turnage, Watt. Total 12.

Absent and not voting: Brown, Conover, Foster, Manning, Olson, Thiessen. Total 6.

Excused: Graham. Total 1.

Senate Bill No. 175, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Cetrone, Colberg, Devine, Drake, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 43.

Noes: Boylan. Total 1.

Absent and not voting: Brown, Conover, Foster, Manning, Olson. Total 5.

Excused: Graham. Total 1.

Senate Bill No. 206, having been read three several times, requiring ⅔ vote of those members present and voting, was passed by the following roll call vote:

Ayes: Aber, Boylan, Devine, Drake, Dunkle, Etchart, Flynn, Galt, Goodover, Hazelbaker, Himsl, Jergeson, Kolstad, McCallum, Manley, Mathers, Murphy, Nelson, Norman, Olson, Rosell, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Turnage, Watt, Mr. President. Total 30.

Noes: Blaylock, Cetrone, Colberg, Fasbender, Greely, Healy, Lee, Lynch, Mehrens, Regan, Roberts, Romney, Seibel, Towe, Warden. Total 15.

Absent and not voting: Brown, Conover, Foster, Manning. Total 4.

Excused: Graham. Total 1.

(Including the following pair: Olson, aye — Lynch, no.)

Senate Bill No. 223, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Cetrone, Devine, Drake, Dunkle, Etchart, Flynn, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mehrens, Murphy, Norman,

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Regan, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Turnage, Warden, Watt, Mr. President. Total 38.

Noes: Colberg, Fasbender, Mathers, Nelson, Roberts, Towe. Total 6.

Absent and not voting: Brown, Conover, Foster, Manning, Olson. Total 5.

Excused: Graham. Total 1.

Senate Bill No. 265, having been read three several times, failed by the following roll call vote:

Ayes: Blaylock, Cetrone, Devine, Fasbender, Flynn, Greely, Healy, Jergeson, Lee, Lynch, Mehrens, Murphy, Norman, Regan, Roberts, Seibel, R. Smith, Story, Towe, Warden, Watt, Mr. President. Total 22.

Noes: Aber, Boylan, Drake, Dunkle, Etchart, Foster, Galt, Goodover, Hazelbaker, Himsl, Kolstad, McCallum, Manley, Mathers, Nelson, Romney, Rosell, Roskie, E. Smith, Stephens, Thiessen, Turnage. Total 22.

Absent and not voting: Brown, Colberg, Conover, Manning, Olson. Total 5.

Excused: Graham. Total 1.

(Including the following pair: Lynch, aye — Foster, no.)

Senate Bill No. 334, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Cetrone, Colberg, Devine, Drake, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 44.

Noes: None.

Absent and not voting: Brown, Conover, Foster, Manning, Olson. Total 5.

Excused: Graham. Total 1.

Senate Bill No. 377, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Cetrone, Colberg, Devine, Drake, Dunkle, Fasbender, Flynn, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Regan, Roberts, Romney, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Towe, Turnage, Warden, Watt, Mr. President. Total 41.

Noes: Etchart, Rosell, Thiessen. Total 3.

Absent and not voting: Brown, Conover, Foster, Manning, Olson. Total 5.

Excused: Graham. Total 1.

Senate Bill No. 387, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Cetrone, Colberg, Devine, Drake, Dunkle,

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COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

1. Amend title, page 1, line 8.

Following: "FUNDING"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Amend page 2, section 2, subsection (1), lines 1 through 5.

Following: "lakeshore,"

Strike: "OCCURRING NATURALLY RATHER THAN BY VIRTUE OF CONSTRUCTED IMPOUNDMENTS (ALTHOUGH A NATURAL LAKE WHOSE LEVEL IS RAISED AND WHOSE AREA IS INCREASED BY THE CONSTRUCTION OF IMPOUNDMENTS INCLUDES THE ADDITIONAL LEVEL AND AREA),"

3. Amend page 2, section 2, subsection (1), line 17.

Following: "apply to"

Strike: "NATURAL"

4. Amend page 2, section 2, subsection (2), line 20.

Following: "elevation"

Insert: ", including the land within one hundred (100) feet above that high water elevation"

5. Amend page 3, section 3, line 9.

Following: "lake"

Insert: "or its lakeshore"

6. Amend page 3, section 3, lines 15 and 16.

Following: "lagooning;"

Strike: "and filling"

Insert: "filling; and constructing breakwaters of pilings"

7. Amend page 3, section 4, subsection (1), line 25.

Following: "REGULATIONS"

Strike: ", IN THE FORM OF CRITERIA,"

8. Amend page 4, section 4, subsection (1), line 1.

Following: "LAKES"

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

Insert: "and on lakeshores"

9. Amend page 4, section 4, subsection (2), lines 6 through 17.

Strike: Subsection (2) in its entirety.

Insert: A new subsection (2) to read:

"(2) The regulations shall include minimum standards in the following categories:

(a) safe and healthful conditions for the enjoyment of aquatic recreation;

(b) demands of water traffic, boating and water sports;

(c) requirements necessary to assure proper operation of septic tank disposal fields near lakes;

(d) building setbacks from the water;

(e) preservation of shore growth and cover;

(f) shoreland layouts for residential and commercial development;

(g) restriction of filling ponds, lakes and reservoirs;

(h) regulation of the construction and operation of wharves and docks."

10. Amend page 5, section 4, subsection (6), lines 4, 5 and 6.

Following: "(6)"

Strike: ~~"If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the~~ THE"

Insert: "If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the"

11. Amend page 5, section 4, subsection (6), line 9.

Following: "IS"

Strike: "GREATER"

Insert: "smaller"

CONTINUED

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COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

12. Amend page 9, following line 8.

Insert: A new section 14.

"Section 14. Effective date. This act is effective upon passage and approval."

BE CONCURRED IN AS AMENDED

SENATE BILL NO. 175

INTRODUCED BY BROWN, ROBERTS, DRAKE, WATT

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROTECT LAKESHORES BY REQUIRING A PERMIT FOR ANY WORK WHICH WOULD ALTER OR DIMINISH A LAKE; REQUIRING LOCAL GOVERNING BODIES TO ADOPT REGULATIONS GOVERNING THE ISSUANCE OF SUCH PERMITS; PROVIDING FOR VARIANCES, JUDICIAL REVIEW, AND FUNDING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Declaration of policy. The legislature finds and declares that the natural lakes of Montana are high in scenic and resource values and that the conservation and protection of these lakes is important to the continued value of lakeshore property as well as to the state's residents and visitors who use and enjoy the lakes. The legislature further declares that local governments should play the primary public roles in establishing policies to conserve and protect lakes. Local governments do not have adequate statutory powers to protect their lake areas, and it is the purpose of this act to confer such powers on local governments, provided that such powers are exercised to maintain public health, welfare, and safety.

Section 2. Definitions. As used in this act--

(1) "Lake" means a body of standing water, and the area within its lakeshore, OCCURRING NATURALLY RATHER THAN BY VIRTUE OF CONSTRUCTED IMPOUNDMENTS (ALTHOUGH A NATURAL LAKE WHOSE LEVEL IS RAISED AND WHOSE AREA IS INCREASED BY THE CONSTRUCTION OF IMPOUNDMENTS INCLUDES THE ADDITIONAL LEVEL AND AREA), ~~occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area),~~ having a water surface area of at least ~~one~~ TWO ONE hundred ~~sixty~~ SIXTY ~~(160)~~ ~~(200)~~ (160) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, NOT USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES, and navigable by canoes and small boats. A ~~board of county commissioners~~ LOCAL GOVERNING BODY may by resolution change the minimum size in the definition of a lake so that this act may apply to NATURAL lakes in the county no smaller than twenty (20) acres in water surface area.

(2) "Lakeshore" is the perimeter of a lake when the lake is at mean annual high water elevation.

(3) "Mean annual high water elevation" is the mean average of the highest elevation of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. A highest elevation caused by operation of a

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dam or other impoundment counts toward the establishment of the mean annual high water elevation.

(4) "Local governing body" or "governing body" is that unit of local government authorized to administer the Montana Subdivision and Platting Act on the land adjoining a lake or part of a lake subject to this act.

Section 3. Work for which permit required. A person who proposes to do any work which will alter or diminish the course, current, or cross-sectional area of a lake must first secure a permit for the work from the local governing body. Without limitation, the following activities are, when conducted below mean annual high water elevation, examples of work for which a permit is required: construction of channels and ditches; dredging of lake bottom areas to remove muck, silt, or weeds; lagooning; and filling.

Section 4. Criteria for issuance of permits. ~~(1)--A planning-board-created-under-section--11-3801--for--an--area containing--a--lake--shall--propose,-before-January-1,-1976, regulations-governing-the-issuance-of-permits--for--work--in lakes.---The--governing--body--or--bodies--shall-adopt-these regulations-in-the-form-of--criteria--for--the--issuance--or denial--of--permits.~~ (1) BEFORE JANUARY 1, 1976, EVERY GOVERNING BODY HAVING JURISDICTION OVER AN AREA CONTAINING A LAKE SHALL ADOPT REGULATIONS, IN THE FORM OF CRITERIA, FOR

THE ISSUANCE OR DENIAL OF PERMITS FOR WORK IN LAKES. WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR AN AREA CONTAINING A LAKE, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATIONS OF THE PLANNING BOARD AS TO THE REGULATIONS TO BE ADOPTED UNDER THIS ACT.

(2) The regulations shall favor issuance if the proposed work will not, during either its construction or its utilization:

(a) MATERIALLY diminish water quality,

(b) MATERIALLY diminish habitat for fish or wildlife,

(c) interfere with navigation or other lawful recreation,

(d) create a public nuisance, or

(e) create a visual impact discordant with natural scenic values, as determined by the ~~planning-board~~ LOCAL GOVERNING BODY, where such values form the predominant landscape elements.

(3) THE LOCAL GOVERNING BODY MAY PROVIDE A SUMMARY PROCEDURE TO PERMIT WORK WHICH IT FINDS HAS A MINIMAL OR INSIGNIFICANT IMPACT ON A LAKESHORE.

~~(3)~~ (4) A governing body whose area contains more than one lake may adopt regulations in differing form for the various lakes, recognizing the physical and social differences between lakes.

~~(4)~~ (5) The requirements of subsection (2) of this

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section are minimum requirements and do not restrict a local governing body from adopting such stricter or additional regulations as may be authorized by other statutes.

~~(5)~~ (6) ~~If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the~~ THE department of natural resources and conservation may, upon petition of five (5) owners OR THIRTY PERCENT (30%) OF THE OWNERS of land ~~along~~ ABUTTING a lake, WHICHEVER IS GREATER, adopt such regulations for the particular lake. The department may then exercise the powers conferred upon a local governing body by this act until the governing body adopts the necessary regulations.

Section 5. Application for permits — procedure. A person seeking a permit for work in a lake shall apply to the local governing body, and shall pay an application fee of ten dollars ($10) to the governing body. ~~If the governing body has or is participating in a planning board, the application shall be referred to the planning board.~~ WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR THE AREA CONTAINING THE LAKE IN QUESTION, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATION OF THE PLANNING BOARD AS TO THE COMPLIANCE OF THE PROPOSED WORK WITH THE CRITERIA FOR THE ISSUANCE OF A PERMIT. The planning board shall ~~determine~~ REPORT ITS RECOMMENDATIONS TO THE GOVERNING BODY

AS TO whether the proposed work conforms to the criteria for issuance of a permit, and may require the applicant to submit additional information before the board ~~reaches a conclusion~~ REPORTS ITS RECOMMENDATIONS. ~~The board shall report its findings to the governing body within three (3) months of receiving an application, unless for cause the governing body extends this time.~~ In areas where a planning board is not established, the functions of a planning board under this section shall be exercised by the local ~~board of health~~ GOVERNING BODY.

Section 6. Consideration of applications by governing body. ~~When a planning board finds that proposed work conforms to the criteria for issuing a permit under this act, the governing body shall approve or reject the application depending upon its compliance with all pertinent rules and statutes. When a planning board finds that proposed work does not conform to these criteria, the governing body may not approve the application without first granting to the applicant a variance from the regulations.~~ UNLESS THE APPLICANT AGREES TO AN EXTENSION OF TIME, THE GOVERNING BODY SHALL GRANT OR DENY PERMISSION FOR THE WORK WITHIN NINETY (90) DAYS OF RECEIVING AN APPLICATION FOR A PERMIT. IF THE GOVERNING BODY FINDS THAT THE PROPOSED WORK CONFORMS TO THE CRITERIA FOR ISSUING A PERMIT IT SHALL ISSUE A PERMIT OR CONDITIONAL PERMIT. IF THE GOVERNING BODY FINDS

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THAT THE WORK DOES NOT CONFORM TO THE CRITERIA, IT SHALL DENY THE APPLICATION.

Section 7. Variance procedure. A governing body which proposes to grant a variance from its regulations under this act shall first prepare an environmental impact statement at the expense of the applicant which conforms to the requirements of ~~the--Montana--Environmental--Policy--Act~~ REGULATIONS ADOPTED PURSUANT TO THIS ACT, distribute this statement to interested residents, and conduct a public hearing on the proposed action.

Section 8. ~~Removing--work--undertaken--without--permit~~ RESTORATION -- PROPERTY RIGHTS. (1) A person who performs work in a lake after the effective date of this act without a permit for that work shall, IF REQUIRED BY THE LOCAL GOVERNING BODY OR THE DISTRICT COURT, restore the lake to its condition before he disturbed it~~--upon--order--of--the--governing--body--or--the--district--court~~.

(2) WORK OR DEVELOPMENT AUTHORIZED OR APPROVED UNDER THIS ACT SHALL NOT CREATE A VESTED PROPERTY RIGHT IN THE PERMITTED DEVELOPMENT, OTHER THAN IN THE PHYSICAL STRUCTURE, IF ANY, SO DEVELOPED.

SECTION 9. IF A LAKE, AS DEFINED BY THIS ACT, IS LOCATED UNDER THE JURISDICTION OF MORE THAN ONE GOVERNING BODY, THE GOVERNING BODIES ARE EMPOWERED AND ENCOURAGED TO ENTER INTO AGREEMENTS TO EFFECTUATE THE PURPOSES OF THIS

ACT, AND ESTABLISH COMPATIBLE CRITERIA FOR DENIAL OR ISSUANCE OF PERMITS.

Section 10. Judicial enforcement and review. The district court may hear and decide the following cases arising under this act within the district:

(1) A complaint and petition of a governing body or an interested person for an order to restore a lake to its previous condition or to enjoin further work in a lake.

(2) A petition of an interested person for review of a final action of a governing body upon an application for a permit.

(3) A petition of an interested person for review of an action of a governing body in adopting or amending regulations.

Section 11. Penalty. A person who violates an order issued under this act or who knowingly violates a regulation made under this act commits a misdemeanor, and on conviction may be sentenced to thirty (30) days in the county jail or fined five hundred dollar ($500), or both. Fines collected under this section shall be paid to the general fund of the county where the offense was committed for the purpose of administering this act.

Section 12. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in

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one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Funding. In compliance with section 43-517, R.C.M. 1947, the administration of this act is declared a public purpose of a city or county which may be paid out of permit application fees collected under section [5 of this act] and federal revenue sharing moneys.

-End-

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Body that the following House Bills and House Joint Resolutions were this day read three several times, and passed, title and history agreed to, and the bills and joint resolutions are herewith transmitted to the Senate for concurrence:

House Bill No. 28 introduced by Gunderson

House Bill No. 30 introduced by Meloy, Huennekens

House Bill No. 36 introduced by Teague, Lynch

House Bill No. 70 introduced by James Moore, Vincent

House Joint Resolution No. 6 introduced by Holmes, Stoltz

House Joint Resolution No. 8 introduced by Vincent, Harper

Respectfully,

EDWIN A. SMITH
Chief Clerk

MOTIONS

Upon motion of Senator Devine, duly carried, that Senate Bill No. 25 be taken from Second Reading and be rereferred to the Committee on State Administration.

Upon motion of Senator Greely, duly carried, that Senate Bill No. 33 be taken from the Committee on State Administration and be rereferred to the Committee on Finance and Claims.

Upon motion of Senator Greely, duly carried, that Senate Bill No. 69 be taken from the Committee on State Administration and be rereferred to the Committee on Business and Industry.

Upon motion of Senator Fasbender, duly carried, that consideration of Senate Bill No. 32 on Second Reading be passed until Tuesday, January 28, 1975.

Upon motion of Senator Fasbender, duly carried, that consideration of Senate Bill No. 34 on Second Reading be passed for this Legislative Day.

FIRST READING OF SENATE BILLS

The following Senate Bills were introduced, posted, and referred:

SENATE BILL NO. 164, introduced by Boylan, Devine, Manley, Roberts, Galt, Kolstad, Aber, Mehrens, Healy, Lee: A bill for an act entitled: "An act amending Section 4-117, R.C.M. 1947, to remove archaic language and to provide a person who purchases liquor in case lots with a five percent (5%) reduction from the retail price." Referred to Committee on Business and Industry.

SENATE BILL NO. 165, introduced by Cetrone, Roberts, Regan, Manley, Norman, Blaylock, Seibel, Stephens, Mathers, Drake, Turnage: A bill for an act entitled: "An act to amend Section 84-301, R.C.M. 1947, to classify business inventories in class seven (7) for the purpose of property taxation." Referred to Committee on Taxation.

SENATE BILL NO. 166, introduced by Manley: A bill for an act entitled: "An act amending Section 53-106, R.C.M. 1947, to provide that number plates for motor vehicles be issued every four (4) years, and to add an additional fee for registration of fifty cents per year; and amending Section 53-112, R.C.M. 1947, to increase the fee for original certificate of ownership and transfer of title from two dollars to three dollars." Referred to Committee on Highways and Transportation.

1-22-75

SENATE BILL NO. 167, introduced by Dunkle, Drake: A bill for an act entitled: "An act to amend Section 11-1024, R.C.M. 1947, increasing the Public Employer's Contribution to insurance for Public Employees to one-hundred percent of the employee only premium or an amount not to exceed twenty-five dollars per month." Referred to Committee on State Administration.

SENATE BILL NO. 168, introduced by Lee, Healy, Mehrens, Lynch, Murphy, Fasbender, Flynn, Hazelbaker, Turnage: A bill for an act entitled: "An act to permit physically and mentally handicapped persons to acquire a fishing license for a nominal fee; amending Section 26-202.1, R.C.M. 1947." Referred to Committee on Natural Resources and Fish and Game.

SENATE BILL NO. 169, introduced by Lynch: A bill for an act entitled: "An act imposing an additional tax on the gross value of the product derived from working any mine for metals or precious or semiprecious stones; and dedicating the proceeds of such tax to the counties where the mining takes place." Referred to Committee on Taxation.

SENATE BILL NO. 170, introduced by Mathers: A bill for an act entitled: "An act to amend Section 75-7205, R.C.M. 1947, to allow the establishment of a building reserve fund for the purpose of purchasing land; providing an immediate effective date." Referred to Committee on Education.

SENATE BILL NO. 171, introduced by Aber, Kolstad, Goodover, Healy: A bill for an act entitled: "An act to amend Section 32-4720, R.C.M. 1947, changing the size of the indentification tag from six square inches to six inches square." Referred to Committee on Highways and Transportation.

SENATE BILL NO. 172, introduced by Lynch: A bill for an act entitled: "An act amending Section 37-104.1, R.C.M. 1947, to require the Attorney General, in his summary of referred, initiative, or constitutional amendment measures, to include an explanation of the exact meaning of a vote for and a vote against the measure." Referred to Committee on Judiciary.

SENATE BILL NO. 173, introduced by McOmber (requested by the Department of Revenue): A bill for an act entitled: "An act to amend Section 84-1901, R.C.M. 1947, relating to the disposition of moneys from certain license and other taxes." Referred to Committee on Taxation.

SENATE BILL NO. 174, introduced by McOmber, Nelson (requested by Department of Revenue): A bill for an act entitled: "An act amending Section 84-6701, R.C.M. 1947, to insert necessary language in the adoption paragraph of the Multistate Tax Compact." Referred to Committee on Taxation.

SENATE BILL NO. 175, introduced by Brown, Roberts, Drake, Watt: A bill for an act entitled: "An act to protect lakeshores by requiring a permit for any work which would alter or diminish a lake; requiring local governing bodies to adopt regulations governing the issuance of such permits; providing for variances, judicial review, and funding." Referred to Committee on Judiciary.

FIRST READING OF HOUSE BILLS

The following House Bills and House Joint Resolutions were introduced, posted, and referred:

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 203	Authorizes citizens to complain about env. degradation.	Feb. 25	TOWE	March 8	BE CONCURRED IN	March 15
SB 279	Provide for a fee increase in the resident conservation license; strikes pioneer license; and free to hospital residing veterans	Feb. 26	ROBERTS		REFERRED TO ANOTHER COMM.	MARCH 6
SB 277	Provides conditions state must meet before entering on lands where it has the mineral rights but not the surface rights	Feb. 28	E. SMITH	March 13	BE CONCURRED IN AS AMENDED	MARCH 18
SJR 25	Urges Pres. Ford to release impounded funds which have been earmarked for the forest service.	Feb. 28	COLBERG	March 8	BE CONCURRED IN	March 11
SB 332	Act to repeal the Montana Environmental Policy Act	March 4	Graham	March 13	REREFERRED TO RULES	March 19
SB 175	Act to protect lakeshores	March 4	BROWN	March 13	AS AMENDED BE CONCURRED IN	March 20

EXHIBIT 3

HOUSE NATURAL RESOURCES

COMMITTEE MEMBERS, 1975

BRADLEY, DOROTHY, CHAIRMAN
FISHBAUGH, FRED, V. CHM.
ANDERSON, JOHN
BARRETT, FRED
DAY, WILLIAM
ELLISON, ORVAL
HUENNEKENS, HERB
KEMMIS, DANIEL
LUEBECK, AL
MELOY, PETER M.
MOORE, JACK
MOORE, JIM
QUILICI, JOE
RICHARDS, PAUL T.
SCHYE, ELMER
SHELDEN, ARTHUR
STOLTZ, GAIL

The Natural Resources Committee convened at 10:35 a.m. in room 437 on March 13, 1975, with Chairman Bradley presiding and a quorum present, for a hearing on the following bills.

SB 277 SENATOR SMITH, the chief sponsor, stated this bill deals with the problems that can develop where the state owns the mineral rights and the surface rights are held by a private owner. In his district there had been serious troubles with salt water and other lack of consideration by Sun Oil Company, and there had been many acres ruined because of the agencies not providing the needed protection. He said going through the legislature seemed the next step to take. Part of his testimony was taken from a speech given by himself, this is exhibit 1*; a letter he had written to Governor Judge on the problem is exhibit 2; Governor Judge's answer is exhibit 3; a Sheridan County conservation report on a tour they had made of the damaged land is exhibit 4*. He also passed snapshots showing the damages done.

SARAH IGNATIUS, Northern Plains Resource Council, stated they were in support of the bill. She said this problem shouldn't have happened in the first place as the law states land that is likely to contain mineral deposits should not be sold. She said this is a reasonable bill which says that any damage made will be compensated.

PHIL TAWNEY, Environmental Quality Council, said this bill could have a broader potential and also cover uranium leasing. He said it is reasonable to consider the rights and concerns of the private surface owner.

BILL ROMINE, Montana Mining Association, supported the bill and a copy of his testimony is exhibit 5.

OPPONENTS:
LEW PENWELL, representing self and Montana Association of Petroleum Landmen, explained how he made his living--which is to obtain leases on promising land. He said if SB 277 went through they would have to go to the private surface owner on state land and what would be that owner's motivation to permit drilling--only really a headache and he might own adjacent land on which he has the mineral rights and would much prefer having drilled. He felt this bill would enable that owner to deny them access. He said this bill would be punitive not only to the gas and oil people but to the school trust fund. He said only a time or two of being denied access and state leases would be worth much less.

TED SCHWINDEN, Commissioner of State Lands, stated SB 277 could have quite an impact on the capability of the state to administer its trust lands to secure the mineral rights which were reserved and which was understood when the purchaser bought the land. He passed out copies of a paper on oil and gas lease acreages in which the state does and does not own surface rights; and also one on coal (exhibits 6 and 7). He also handed out copies of a suggested substitute bill, exhibit 8.

LESTER H. LOBLE, Montana Dakota Utility Company, said this would stop all work being done now on gas and oil wells on state land as no one could go into the oil and gas fields until the provisions of this bill are satisfied.

*Exhibits 1 and 4 no longer available.

SUE BRYAN, League of Women Voters, stated their opposition of the bill. A copy of the League's written testimony which was handed to the committee members by Joy Bruck is exhibit 11. Ms. Bryan stated she felt the committee should be made up of the legislative branch in order to work properly. She expressed a fear that if the make-up of the council wasn't looked into there was a danger of loosing the entire EQC.

SB 175 SENATOR BROWN, the chief sponsor, stated the bill is a product of lots of work done by many because of problems on Whitefish Lake.

LELAND SCHOONOVER, Polson Outdoors, Inc., Flathead Wildlife, Western Montana Fish and Game Association, Flathead Tomorrow, said he supported this bill in preference to Mr. Bardanouve's bill. He said this bill more suits their needs on the Flathead Lake. He said they have some suggestions: page 4, lines 9 and 10, make the word "materially" more specific and after "wildlife" add "or other aquatic life"; also on page 5, line 8, he felt the 30% should be struck as it would be difficult along Flathead to get 30% of the owners; and felt it should be effective upon signing.

REP. JAMES F. FLEMING, JR., stated he had a home on Flathead that he would like to see protected.

CHARLES R. ABELL, Whitefish City County Planning Board, passed photographs for the committee to see showing dredging, etc., on the northern end of Whitefish Lake--which was the reason he contacted Senator Brown to sponsor this bill. He said this bill was put together basically by the citizens of the area. He said they need the protection this bill would offer.

DONALD E. HEDMAN, representing self, stated with their fantastic body of water it is imcomprehensible that they would let these things happen. The point, he said, is they have no law to prevent degradation between high and low water mark. He said they do want the control at local level and there would be no cost factor involved as the planning board is already set up. He said they need this bill.

DAN MIZNER, Montana League of Cities and Towns, stated this bill was presented to the board and unanimously accepted. He said water supplies for cities and towns could be affected when lakes are misused as there are times when that supply is needed.

ARTHUR C. ENGELTER, representing the city of Whitefish, spoke next and a copy of his testimony is exhibit 12.

JOHN C. COCHRANE, Flathead Lakers, Inc., spoke next and a copy of his testimony is exhibit 13. He had a large map on which he illustrated how diversified in water depth Flathead Lake shoreline is.

PHIL TAWNEY, EIC, stated their support of SB 175 with a few minor reservations: it should include reservoirs as there are many man-made lakes that are used heavily and should be under this protection; on page 3, lines 15 and 16 it should include breakwaters; on page 5, the number or percent of people needed to file a complaint should be left in its original; and an effective date should be on; and finally it should be stressed that local people must carry through and do their job.

FRANK GUAY, County Commissioner of Flathead County, stated they do have a large influx of people who are not always sympathetic to their problems. He felt the local control provided here would be better than that provided by Rep. Bardanouve's HB 153. He said too often they run into regulations that may work well in the eastern part of the state but not in their area. He liked the fact that if people run into an unresponsive county commissioner or city official they can go to the Department of Natural Resources for help. He expressed a fear that their planning board may need extra time and if this bill were made law now they wouldn't be ready to implement it. He suggested July 1, 1976, as an effective date.

LYVERNE CRANMORE, Montana Farm Bureau, Ravalli Farm Bureau, spoke in support of the bill and a copy of her testimony is exhibit 14. Just for herself, she said she'd like to say a word in support of a segment of the population that she is happy to be a member of--the cowboys. She said a derogatory statement had been made the previous day on the floor of the House. She said they may not have the intelligence that comes from reading books and swallowing them whole but common sense they have.

GORHAM SWANBERG, Montana Railroad Association, stated they support the bill.

SUE BRYAN, Montana League of Women Voters, spoke in support and a copy of her testimony is exhibit 15.

Senator Brown said he closed.

Questions were asked by the committee. Rep. Shelden suggested the putting in of an immediate effective date; and since there are no regulations now, it would in effect be a moratorium until such regulations were drafted--and would that be bad? Mr. Cochrane, Mr. Guay and Mr. Schoonover felt this might be advisable; Sen. Brown said he would like to discuss that. Mr. Schoonover would like to have removed "whichever is greater" on page 5, dealing with number of people needed for a complaint.

EXECUTIVE SESSION

SB 38 Rep. Jim Moore discussed the amendment which is exhibit 16. Rep. Richards moved SB 38 as amended be concurred in. Motion passed unanimously except for those absent (Reps. Day, Fishbaugh, Meloy and Jack Moore).

SB 39 Rep. Stoltz moved SB 39 be concurred in. Motion passed unanimously. Same absent as above.

SB 51 Rep. Jim Moore moved SB 51 be concurred in. Motion passed unanimously with same absent as above.

SB 310 Rep. Shelden, chairman of the subcommittee, stated they had met with the people who had drawn up the bill and worked over the suggested amendments and a copy of those finally agreed on is exhibit 17. Rep. Shelden went through these. It was decided to hold the bill over until Saturday so all would have a chance to study the suggested amendments.

Rep. Jim Moore will carry the three bills moved on today.

The meeting adjourned at 1:00 p.m.

Respectfully submitted by:

Dorothy Bradley

Dorothy Bradley, Chairman

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Ex. 12

March 13, 1975

I am Art Engelter. I live in Whitefish, Montana where I have resided for over 50 years. I am a member of the Whitefish City Council and have served on the water committee many years. I serve on the City-County Planing Board, the Area-wide Planning Organization and the Montana League of Cities and Towns.

All of us have seen and are seeing, our natural lakes gradually being altered from the original natural scenic bodies of water that was pure for human consumption, that was wonderfully productive for fish and other wild life and for the enjoyment of water sports. We now see our lakes being threatened by polution, indiscriminate filling and other alterations and if allowed to continue without regulation, we will eventually see these lakes destroyed, as has been the case in many other states.

We all realize this condition. That is why we are here today to endeavor to pass legislation that will preserve our lakes and yet not take away the rights of the lake shore property owners.

The city of Whitefish receives its primary source of water from creeks on the mountain north of the city. Many times during the year when these creeks run low, water is pumped into the mains from two separate locations from Whitefish Lake, -hence our concern to maintain a high quality of water in the lake.

You are here today to consider Senate Bill # 175 which in our opinion would afford the protection and regulations necessary to preserve our lakes and which would meet the minimum amount of objections and criticism of lake shore property owners. The bill provides, the Legislature would declare that local government would establish policies to conserve and protect lakes and in our opinion would be far more expeditious in the reviewing of applications for alterations and the issuances of permits or denials than if it were handled through a state Agency. Local governments, by using Planning Boards where they are available or City Councils in city limits where people are already available to make the investigations and to pass on their recommendations to the governing bodies as to whether permits for alterations should be issued or denied. Local people would be better qualified to make these judgements. The bill further provides for a modest fee for the applicant of a permit to help defray expense to local governments. It also provides for variances from its regulations under certain conditions for judicial review and enforcement and provides a penalty for non-compliance of the regulations.

The City Council of Whitefish strongly urges passage of Senate Bill #175.

THANK YOU.

Ex. 13 35

TO-

THE COMMITTEE ON NATURAL RESOURCES OF THE HOUSE OF REPRESENTATIVES

LADIES & GENTLEMEN:-

The Board of Directors of Flathead Lakers, Inc., a non-profit organization of some 1500 members who own property adjacent to Flathead Lake, have expressed their opinions and desires in regard to the Shoreline Protection Bills (HB 153 and SB 175).

We respectfully ask for due consideration from this Committee of these following opinions and desires--

1. We believe it to be in the best interest of the general public and of lakeshore property owners to have our Local Governing Bodies and our Local Planning and Zoning Boards establish policies and maintain control of land adjacent to bodies of water and also land below the high water mark of the lake affected.

2. Control by the Department of Natural Resources, as provided for in H.B.-153 where Counties default, would require a great increase of personnel at great additional expense to the taxpayers, would be cumbersome, would lack knowledge of local and individual problems, and would virtually deny any further development around the lake without long, tedious, and exasperating conferences with committees from many,many agencies of the State.

3. Section 5 of H.B. 153, (referring to 500' from the low water mark.)- This clause would not, in many areas of Flathead Lake, provide for any protection whatsoever of land adjacent to the Lake; and at the same time, in other areas, would deny a person the right to even repair the roof of his house, plant a garden, clear space for a picnic table, or any other activity on his own property.

4. Flathead Lakers, Inc. strongly desire a bill which will control any dredging, filling or lagooning of the lakeshore or below the high water mark.

We strongly desire a bill which will give Local Control. Period.

We recognize that control back from 500' of the low water mark is absolutely unworkable on Flathead Lake.

Flathead Lakers, Inc. appreciate the efforts and intent of HB. 153, but we are unalterably opposed to it's passage in it's present form.

Flathead Lakers, Inc. are strongly in favor of passage of SB 175 in it's present form and respectfully appeal to this Committee to place a DO PASS upon it.

Very Sincerely John C. Cochrane

John C. Cochrane, Pres.
Flathead Lakers, I nc.

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Ex. 14

BEST COPY AVAILABLE

NAME Wayne Crenshaw Bill No. SB175

ADDRESS 1135 Northern Lin NE Cornelius Ott Date 7 Mar 13

WHOM DO YOU REPRESENT? Washington Farm Bureau
Cornelius Co. Farm Bureau

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I have thoroughly reviewed the bill and find we are in complete accord with it, as written. It incorporates local control, as the agricultural community clearly indicated it wanted. at the nine regional land use conferences. We reemphasize our support for those same principles which are in this bill.

I thoroughly understand the need for lake shore regulations, especially where recreation is to be considered. There is no more destructive force than the human animal.

We can see no reason why the enactment of SB 175 would not cure the major problems we have in the state. We note with satisfaction that areas which are not of major concern are not incorporated in the bill specifically, but, there is reference and a mechanism in Section 2, which allows the "Local Governing Body" to make the determination if a smaller lake should be regulated also. We like that.

Considering the above, we extend your support ~~of the concept~~. We are nice to be on favor of

something before the committee.

BEST COPY
AVAILABLE

Ex. 15

BEST COPY AVAILABLE

NAME Susan M. Bryan Bill No. SB 175

ADDRESS 1015 Beverly Date 3-18-75

WHOM DO YOU REPRESENT? League of Women Voters of Mont.

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Shoreline Protect is of critical concern to league members across the state. We watched similar legislative proposals go down to defeat in the last few years that would secure such protection and hope that SB 175 will be passed. The lakeshores of our state and citizens who enjoy these resources deserve better protection than what is being provided now.

We have many calls for local service assistance, particularly on issues of land use planning. The League has been a long supporter of local decision-making and citizen involvement. SB 175 represents a sincere effort to maintain this process as it relates to lakeshores.

However, we feel we must voice a growing concern about the effectiveness of local controls. In short, the decision-making process at this level is hampered by a lack of factual information, inadequate citizen education, and pressures from special interest groups who stand to make financial gains at the expense of a community.

The passage of SB 175 would be significant in two ways: (1) it would begin to provide protection for lakeshores, and (2) it would offer a three tier of local decision-making. This bill invites citizen involvement unlike what we've witnessed. Local officials and

citizens must shoulder the responsibility.

The danger of Atomic Waste generally begins when the shell is placed, and must at once represent an opportunity to evaluate other alternatives. The growing Environmental Movement generally advocates at the state level remains the most viable alternative - but this has also become the most singular reason to reject many bills. Sometimes, sometimes we must reach a compromise. The Hope S.B. 175 represents such an opportunity.

Thank you.

The Natural Resources Committee convened in room 437 at 10:40 a.m. on March 18, 1975, with Chairman Bradley presiding and a quorum present for an executive session on the following bills. Rep. Fishbaugh was excused.

Chairman Bradley mentioned that she planned to further amend SB 92 on the floor as the Land Department had stressed the need to amend the time needed to make a finding from 30 days to 90 days. This bill had been amended and concurred in by the committee on March 15.

SB 338 Rep. Day moved that SB 338 be concurred in. Motion carried unanimously with those present. Absent were Reps. Kemmis, Barrett, Jim Moore, Jack Moore; absent but leaving a written request to be voted aye were Reps. Fishbaugh and Richards. Rep. Day will carry this bill on the floor.

SB 395 The subcommittee has not met and it was recommended by the Chairman that they do meet and look over the Fish and Game amendments.

SB 374 Rep. Shelden moved be concurred in. Rep. Quilici wondered why the Bureau of Mines wasn't selected to undertake the study. It was felt they probably would end up with the contract to do the study. The motion carried unanimously. Reps. Fishbaugh, Richards and Kemmis had left a written request to have their votes case as aye. Reps. Jim Moore, Barrett and Jack Moore were absent. Chairman Bradley will carry this bill on the floor.

SB 310 Rep. Shelden, the subcommittee chairman, said the first amendment had been accepted by the committee at a previous meeting. He read the second amendment (amendments are exhibit 1) and said this would remove the exclusions that proved a problem with the last discussion on the bill. This would leave exclusions up to the local supervisors in their local regulations. Rep. Shelden moved it be adopted--Ellison and Schye voted no; absent were Barrett, Kemmis, Jack Moore, Jim Moore, Fishbaugh and Richards; motion carried. Rep. Shelden read the fourth amendment and moved it be accepted and the motion carried unanimously, same absent as prior amendment. He then read the fifth and moved its acceptance which also carried unanimously with those present. Rep. Shelden then moved that as so amended SB 310 be concurred in. Rep. Schye questioned whether there would be anyone in the agency capable and qualified to handle this bill--stating some hydraulic engineers were needed. He said the SCS do a good job but need help. Rep. Quilici stated the bill has been worked on all through the summer by the ranchers and sportsmen and is needed. Rep. Day, Rep. Shelden and Rep. Anderson all stated confidence in the SCS and that while the bill is not a cure-all, it is at least a start. A roll call vote was taken and the motion carried with Rep. Schye voting no; absent being Reps. Fishbaugh, Barrett, Jack Moore; absent but leaving a request to be voted aye were Richards, Jim Moore, Huennekens. Rep. Shelden will carry the bill on the floor.

SB 332 Rep. Meloy said there was a question of constitutionality--that the amendments have changed the intent of the bill. Rep. Richards moved

to refer the bill to rules committee. Motion carried unanimously. Rep. Richards now present and absent being Reps. Kemmis, Fishbaugh, Jack Moore, Jim Moore and Barrett.

SB 277 The subcommittee that worked on this bill were Reps. Bradley, Kemmis and Anderson. The suggested amendments are exhibit 2. Chairman Bradley asked the consideration of the first two amendments on the list, and moved they be adopted. Motion carried unanimously--same absent as previous paragraph. Amendment 3 had to do with arbitration and Susan Roy, the committee researcher, was asked about this. She said it might not be possible for the state to require binding arbitration--that by law this must be left to the discretion of those affected.

Chairman Bradley proposed the wording be finalized by Mrs. Roy to the effect that the arbitration would be binding if parties agreed in advance. With this understanding section 3 was moved by Chairman Bradley (section 3 of amendment 3). Motion carried unanimously with same absent as before plus Rep. Huennekens. Section 4 in amendment 3 was moved by Chairman Bradley and passed unanimously with same absent as before. Rep. Shelden moved the bill as amended be concurred in. Motion carried unanimously, Jim Moore now present, and absent being Reps. Kemmis, Fishbaugh, Jack Moore, Barrett and Huennekens.

SB 175 Since the chairman of the subcommittee, Rep. Kemmis, was not present, Rep. Luebeck, also on the subcommittee, discussed the suggested amendments which are exhibit 3 of the minutes. Amendment 1 was discussed by Rep. Luebeck and he moved its adoption. It carried unanimously with those present. Absent were Reps. Huennekens, Kemmis, Fishbaugh, Jack Moore, Barrett and Meloy. Amendment 2 was discussed and moved by Rep. Luebeck, Reps. Day and Ellison voted no, absent same as previous except that Rep. Meloy had returned. Amendment 3 was discussed and moved by Rep. Luebeck and motion carried unanimously with those present. Rep. Kemmis had come, absent otherwise the same as before. Amendment 4 was discussed and moved by Rep. Luebeck and it carried unanimously with the same absent as previously. Amendment 5 was discussed and moved by Rep. Luebeck, voting no were Reps. Day, Ellison and Anderson and absent the same as the previous amendment. Motion carried. Amendments 6 and 7 were discussed and moved by Rep. Luebeck. Voting no was Rep. Meloy as he said aquatic life would include algae and they flourish on the dumping of sewage. Motion carried with same absent. Rep. Huennekens returned. Amendment 8 was discussed and moved by Rep. Luebeck and the motion carried unanimously with absent now being Reps. Fishbaugh, Jack Moore and Barrett. Amendment 9 was discussed and moved by Rep. Luebeck, Rep. Day and Ellison voted no, same absent as previous amendment, motion carried. Rep. Meloy moved that action be deferred on the bill for two days with a carry over of amendments. Motion carried unanimously with those present, same absent.

Chairman Bradley passed to the committee members a list of the resolutions that require studies and asked them to decide which in their estimation had the highest priority and to rank them in importance. She said this would be further discussed on Thursday and action taken then as to the final two bills.

Meeting adjourned at 1:05 p.m.

Respectfully submitted,

Dorothy Bradley

Dorothy Bradley, Chairman

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SUBCOMMITTEE AMENDMENTS TO SB 175

1. Amend title, page 1, line 8.
Following: "FUNDING"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Amend page 2, section 2, subsection (1), lines 1 through 5.
Following: "lakeshore,"
Strike: "OCCURRING NATURALLY RATHER THAN BY VIRTUE OF CONSTRUCTED IMPOUNDMENTS (ALTHOUGH A NATURAL LAKE WHOSE LEVEL IS RAISED AND WHOSE AREA IS INCREASED BY THE CONSTRUCTION OF IMPOUNDMENTS INCLUDES THE ADDITIONAL LEVEL AND AREA),"

3. Amend page 2, section 2, subsection (1), line 17.
Following: "apply to"
Strike: "NATURAL"

4. Amend page 3, section 3, lines 15 and 16.
Following: "lagooning;"
Strike: "and filling"
Insert: "filling; and constructing breakwaters of pilings"

5. Amend page 4, section 4, subsection (2) (a) and (b), lines 9 and 10.
Following: "(a)" and "(b)"
Strike: "MATERIALLY" in both lines.

6. Amend page 4, section 4, subsection (2), line 10.
Following: "fish"
Strike: "or"
Insert: ","

7. Amend page 4, section 4, subsection (2), line 10.
Following: "wildlife,"
Insert: "or other aquatic life,"

8. Amend page 5, section 4, subsection (6), lines 6 through 10.
Strike: "THE department of natural resources and conservation may, upon petition of five (5) owners OR THIRTY PERCENT (30%) OF THE OWNERS of land ABUTTING a lake, WHICHEVER IS GREATER, adopt such regulations for the particular lake."
Insert: "If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the department of natural resources and conservation may, upon petition of five (5) owners of land abutting a lake, adopt such regulations for the particular lake."

9. Amend page 9, following line 8.
Insert a new section 14.
"Section 14. Effective date. This act is effective upon passage and approval."

The Natural Resources Committee convened at 10:35 a.m. on March 20, 1975, in room 437 with Chairman Bradley presiding and a quorum present to take action on the following bills.

SB 175 Rep. Richards made a motion that SB 175 be concurred in as amended. Rep. Kemmis reviewed the main amendments to the bill which was exhibit 3 in the March 18 minutes. He mentioned it would provide an immediate effective date and would include larger reservoirs. There was discussion on reservoirs and the feeling seemed to be that this would not interfere with the farmer's use of their reservoirs but would give needed protection to the larger ones. Vote was taken on Rep. Richards' motion and it carried with eleven yes, Rep. Ellison abstained, and five absent (Reps. Quilici, Fishbaugh, Meloy, Day and Huennekens).

SB 395 Sue Roy, the committee researcher, at the request of Chairman Bradley, discussed the Fish and Game amendments (exhibit 1) to the bill. The third amendment, which would have the department specifically look at fish and wildlife value before issuing a certificate of appropriation, was looked at first. Rep. Luebeck moved this amendment (number 3 on exhibit 1) be adopted. Motion carried with Reps. Schye and Ellison voting no; and absent now being Reps. Quilici, Fishbaugh, Meloy as Reps. Day and Huennekens had come. Mrs. Roy went through the first amendment listed which would insure the Fish and Game Department would be notified of a water application. Rep. Ellison said this amendment would mean considering everybody with even a recreational interest in the stream before an appropriation could be granted. Rep. Schye felt the Department of Natural Resources has enough to do now with water adjudication problems and this would only tend to slow them down. He moved this amendment be not adopted and this motion carried unanimously with those present. Mrs. Roy went through the second amendment on the list. Rep. Ellison moved do not pass. Rep. Day felt this was a good one not only for the Fish and Game but for irrigation people as this would have reservations date from filing of the application rather than from the order of reserving the water, and made a substitute motion of do pass. Rep. Huennekens said he found himself in rare disagreement with Rep. Day. He said this would allow a big company to come in and file up all water and there wouldn't be anything left for the little fellow. He was informed the big companies can't reserve water--only state and federal agencies and municipalities. The motion of do pass carried with seven yes (Day, Bradley, Kemmis, Luebeck, Richards, Shelden, Stoltz); six no (Anderson, Barrett, Ellison, Huennekens, Jack Moore, Schye); four absent (Fishbaugh, Meloy, Jim Moore, Quilici). Rep. Stoltz moved be concurred in as amended. A roll call vote was taken and motion carried with the only one switching his vote being Rep. Huennekens who voted aye. Otherwise all voted as they did for the last amendment.

Chairman Bradley reminded the members to turn in their priority sheets on the resolutions. Rep. Day spoke in favor of HJR 53 saying it was by far the most important study that could be conducted in Montana. He said we are going into coal development and we don't know what it will do to our ground water. He said it is a possibility that the needed money could come from the impacted coal money. Rep. Schye said he would second Rep. Day's comments.

Rep. Luebeck spoke for the study on public access to public lands. He

said people are getting angrier and angrier. He said if we don't get this resolution we are prevented again from finding out what can be done.

Rep. Richards said HJR 17 is badly needed--to study programs to protect our prime agriculture land.

Chairman Bradley stated her concern for strip mining reclamation laws--she said responsibility should go beyond just passing laws and should include finding out how they are working. She suggested the committee, since its regular work was done, might have an oversight hearing at which they would invite representatives from different agencies, companies, interested citizen groups, universities who would have expertise in this area. She said she would like their reaction to this idea. She said the information given would be compiled and available for all to use.

Rep. Huennekens stated this could be a worthwhile new trend to extend the function of our House committees. He said so much work is done in haste and under pressure with insufficient background, and this could supply needed background for the future. He felt it was a good idea, and if a motion was necessary he so moved.

Rep. Richards said he seconded the motion. He asked if it were possible to hold this after the session.

Chairman Bradley said no because of the expense. It would need to be done while the committee is still together.

Rep. Day questioned the possiblility of still making the Colstrip trip which due to weather had never been made.

Rep. Shelden felt it was a good idea. He thought the committee should get together and look at the suggested agenda--that very specific questions be asked.

Chairman Bradley expressed the thought that it should be limited to what the committee could do--perhaps kept within the Reclamation Act.

Rep. Huennekens moved the committee recommend the Chairman look into the possiblity of having an oversight hearing and bring a report to the committee on Saturday. Rep. Schye said he would like to see the Bureau of Mines represented. Motion carried unanimously with those present.

Meeting adjourned at 11:45 a.m.

Respectfully submitted,

Dorothy Bradley
Dorothy Bradley, Chairman

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Amend page 1, section 1, lines 15 through 18.
Strike: lines 15 through 18 in their entirety.

And as amended, do pass.

BARDANOUVE, Chairman

Report adopted.

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 411, respectfully report as follows: That House Bill No. 411 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 429, respectfully report as follows: That House Bill No. 429 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 669, respectfully report as follows: That House Bill No. 669 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 675, respectfully report as follows: That House Bill No. 675 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 707, respectfully report as follows: That House Bill No. 707 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 703, respectfully report as follows: That House Bill No. 703 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 709, respectfully report as follows: That House Bill No. 709 do not pass.

BARDANOUVE, Chairman

March 22, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 710, respectfully report as follows: That House Bill No. 710 do not pass.

Report of Standing Committee:

March 20, 1975

Mr. Speaker: We, your Committee on Natural Resources, having had under consideration Senate Bill No. 175, respectfully report as follows: That Senate Bill No. 175 be amended in the Third Reading bill as follows:

1. Amend title, page 1, line 8.
Following: "funding"
Insert: "; and providing an effective date"

2. Amend page 2, section 2, subsection (1), lines 1 through 5.
Following: "lakeshore,"
Strike: "occurring naturally rather than virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area),"

3. Amend page 2, section 2, subsection (1), line 17.
Following: "apply to"
Strike: "natural"

4. Amend page 3, section 3, lines 15 and 16.
Following: "lagooning;"
Strike: "and filling"
Insert: "filling; and constructing breakwaters of pilings"

5. Amend page 4, section 4, subsection (2) (a) and (b), lines 9 and 10.
Following: "(a)" and "(b)"
Strike: "materially" in both lines.

6. Amend page 4, section 4, subsection (2), line 10.
Following: "fish"
Strike: "or"
Insert: ","

7. Amend page 4, section 4, subsection (2), line 10.
Following: "wildlife,"
Insert: "or other aquatic life,"

8. Amend page 5, section 4, subsection (6), lines 6 through 10.
Strike: "The department of natural resources and conservation may, upon petition of five (5) owners or thirty percent (30%) of the owners of land [along] abutting a lake, whichever is greater, adopt such regulations for the particular lake."
Insert: "If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the department of natural resources and conservation may, upon petition of five (5) owners of land abutting a lake, adopt such regulations for the particular lake."

9. Amend page 9, following line 8.
Insert: a new section 14 as follows:

"Section 14. Effective date. This act is effective upon passage and approval."

And as amended, be concurred in.

(Material in brackets denotes cancelled type.)

BRADLEY, Chairman

Report adopted.

March 22, 1975

Mr. Speaker: We, your Committee on Education, having had under consideration Senate Bill No. 275, respectfully report as follows: That Senate Bill No. 275 be amended in the Third Reading copy as follows:

1. Amend the title, page 1, lines 6 through 9.
Following: "An act"
Strike: "repealing Section [75-6126] 75-6121, and amending Sections 75-6117, [75-6118,] 75-6119, 75-6120, 75-6122, 75-6123, 75-6124, and 75-6125, R.C.M. 1947;"

2. Amend the title, page 1, lines 9 through 13.
Following: "providing for"
Strike: "the utilization of the board of personnel appeals in controversies arising under the professional negotiations act for teachers, defining and providing a remedy for unfair labor practices, and otherwise amending the professional"
Insert: "issuance of individual teacher contracts during"

3. Amend the title, page 1, line 13.
Following: "negotiations"
Strike: "act for"
Insert: "between"

4. Amend the title, page 1, lines 13 and 14.
Following: "teachers"
Strike: "; and providing an immediate effective date"
Insert: "and school boards"

5. Amend page 1, line 17 through page 17, line 6.
Following: "Section 1."
Strike: the remainder of the bill in its entirety.
Insert: "There is a new R.C.M. section that reads as follows:

Issuance of individual teacher contracts. In the case of negotiation involving teachers and school boards, individual teacher contracts may be issued if an agreement has been ratified. If an individual teacher contract contains any language inconsistent with the agreement, the agreement during its duration shall be controlling. In the event some items remain at issue in negotiations and the representative of teachers deems it necessary an election may be called. If a majority of those teachers casting ballots consider the items remaining to be of minor importance, individual teacher contracts may be issued and the items remaining shall be negotiated following the issuance of individual teacher contracts."

And as amended, be concurred in.

(Material in brackets denotes cancelled type.)

GUNDERSON, Chairman

Report adopted.

690

Objection raised by Scully on the adverse committee report on Senate Bill No. 206. Referred to Second Reading.

Objection raised by Meloy on the adverse committee report on House Bill No. 675. Referred to Second Reading.

Objection raised by Bertelsen on the adverse committee report on House Bill No. 703. Referred to Second Reading.

MOTIONS

Driscoll moved that the House rules be temporarily suspended this day so that committee reports from the Committee on Appropriations be placed on Second Reading for consideration this day.

Motion carried.

Driscoll moved that the House rules be temporarily suspended so that objections to adverse committee reports from the Committee on Appropriations be placed on Second Reading this day.

Motion carried.

Driscoll moved that Appropriations bills be taken from Printing and be placed on Second Reading this day.

Motion carried.

Driscoll moved that all Appropriations bills which pass Second Reading amended or unamended this day be placed on Third Reading this day.

Motion carried.

Murphy moved that the House reconsider its action of the previous legislative day in adopting an adverse committee report on House Bill No. 131. Murphy requested a roll call vote with the ayes and nays spread upon the journal. Sufficient seconds arose and the motion failed by the following vote:

Ayes: C. R. Anderson, W. Baeth, Bertelsen, Bradley, Dassinger, Day, Driscoll, Dussault, Fishbaugh, Fleming, Gilligan, Gunderson, Gwynn, Hageman, Harper, Herlevi, Huennekens, Jacobsen, Johnson, Kemmis, Kropp, Kummerfeldt, Lester, Luebeck, McFadden, Meloy, James Moore, Murphy, O'Connell, Palmer, Rasmussen, Richards, Scully, Shelden, Sloan, South, Staigmiller, Stoltz, Travis, Tropila, Vincent, Wolfe, Mr. Speaker. Total 43.

Noes: Aageson, J. Anderson, Asher, Babcock, R. Baeth, Barrett, Bengtson, Brand, Casey, Conroy, Ellerd, Ellis, Ellison, Fabrega, Fagg, Finley, Gerke, Gould, Guthrie, Hager, Halvorson, Helmbrecht, Hubing, Johnston, Kanduch, Kelly, Kendall, Kvaalen, Lockrem, Lory, Lynch, Magone, Manuel, Marks, Menahan, Mercer, Jack Moore, Quilici, Robbins, Seifert, Sivertsen, Smith, Underdal, Williams, Wood, Wyrick, Yardley. Total 47.

Excused: Kimble, Lien, Mular, Schye, Teague. Total 5.

Absent or not voting: Bardanouve, Federico, Holmes, Lund, Thomas. Total 5.

Meloy moved that Senate Bill No. 175 be taken from Second Reading and be rereferred to the Committee on Natural Resources.

Motion carried.

REPORTS OF STANDING COMMITTEES

Objection raised by Holmes on the adverse committee report on House Bill No. 669. Referred to Second Reading.

Objection raised by Meloy on the adverse committee report on House Bill No. 710. Referred to Second Reading.

Objection raised by Dussault on the adverse committee report on House Bill No. 709. Referred to Second Reading.

March 25, 1975

The Natural Resources Committee convened in room 437 on March 25, 1975, at 9:30 a.m. with Chairman Bradley presiding and a quorum present. Absent were Reps. Barrett, Ellison, Quilici, Richards and Schye; excused were Reps. Fishbaugh and Jack Moore. The meeting was called to further discuss SB 175 which had been rereferred to the committee.

During discussion Rep. Jim Moore said he felt the bill's title is broad enough to cover zoning. He felt some language should be put in so that it would be clear the legislature wanted some sort of zoning.

Rep. Meloy said he felt one of the strongest points of Rep. Bardanouve's bill (HB 153 and also a lakeshore bill) is the criteria list that must be met before deciding on a permit--he felt this list should be added to SB 175.

Rep. Meloy then moved that SB 175 be not concurred in stating a feeling that as long as this bill is alive nothing would be done with HB 153 in the Senate.

Rep. Jim Moore expressed a feeling that a weaker bill is better than no bill as the people need this protection.

Rep. Meloy withdrew his motion.

Chairman Bradley appointed a subcommittee to look further into what additional amendments were needed and they were to report at a short committee meeting on March 26, time to be set. The subcommittee assigned was Rep. Huennekens, Kemmis and Anderson.

Chairman Bradley passed for the committee's perusal a proposed letter to send to the speakers who would be invited to participate in the oversight hearing. She said the date set was April 4 at 7 p.m. This is exhibit 1 of the minutes.

Meeting adjourned at 10:00 a.m.

Respectfully submitted,

Dorothy Bradley
DOROTHY BRADLEY, CHAIRMAN

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March 26, 1975

The Natural Resources Committee convened in room 437, on March 26, 1975, at 10:40 a.m. with Chairman Bradley presiding and a quorum present. Reps. Fishbaugh, Jack Moore, Shelden, and Elmer Schye were excused; absent were Reps. Day and Quilici. The meeting was called to further consider SB 175.

Rep. Kemmis, replacing Rep. Huennekens who had to be gone for a short while, went through suggested amendments which would incorporate some of the stronger points from Rep. Bardanouve's Lakeshore Bill, HB 153, into this bill. The hope expressed is that both bills would end up in a conference committee and differences could be ironed out there. The recommended amendments are exhibit 1. Rep. Kemmis moved the amendments be adopted. Motion carried unanimously with those present. Rep. Stoltz moved the bill as amended be concurred in. Motion carried unanimously with those present (Rep. Shelden had expressed a wish to be recorded as voting aye for concurring as amended). Rep. Huennekens had returned.

Meeting adjourned at 10:10 a.m.

Respectfully submitted,

Dorothy Bradley
DOROTHY BRADLEY, CHAIRMAN

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HOUSE OF REPRESENTATIVES March 26, 1975

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

1. Amend title, page 1, line 8.

Following: "FUNDING"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Amend page 2, section 2, subsection (1), lines 1 through 5.

Following: "lakeshore,"

Strike: "OCCURRING NATURALLY RATHER THAN BY VIRTUE OF CONSTRUCTED IMPOUNDMENTS (ALTHOUGH A NATURAL LAKE WHOSE LEVEL IS RAISED AND WHOSE AREA IS INCREASED BY THE CONSTRUCTION OF IMPOUNDMENTS INCLUDES THE ADDITIONAL LEVEL AND AREA),"

3. Amend page 2, section 2, subsection (1), line 17.

Following: "apply to"

Strike: "NATURAL"

4. Amend page 2, section 2, subsection (2), line 20.

Following: "elevation"

Insert: ", including the land within one hundred (100) feet above that high water elevation"

5. Amend page 3, section 3, line 9.

Following: "lake"

Insert: "or its lakeshore"

6. Amend page 3, section 3, lines 15 and 16.

Following: "lagooning;"

Strike: "and filling"

Insert: "filling; and constructing breakwaters of pilings"

7. Amend page 3, section 4, subsection (1), line 25.

Following: "REGULATIONS"

Strike: ", IN THE FORM OF CRITERIA,"

8. Amend page 4, section 4, subsection (1), line 1.

Following: "LAKES"

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

Insert: "and on lakeshores"

9. Amend page 4, section 4, subsection (2), lines 6 through 17.

Strike: Subsection (2) in its entirety.

Insert: A new subsection (2) to read:

"(2) The regulations shall include minimum standards in the following categories:

(a) safe and healthful conditions for the enjoyment of aquatic recreation;

(b) demands of water traffic, boating and water sports;

(c) requirements necessary to assure proper operation of septic tank disposal fields near lakes;

(d) building setbacks from the water;

(e) preservation of shore growth and cover;

(f) shoreland layouts for residential and commercial development;

(g) restriction of filling ponds, lakes and reservoirs;

(h) regulation of the construction and operation of wharves and docks."

10. Amend page 5, section 4, subsection (6), lines 4, 5 and 6.

Following: "(6)"

Strike: ~~"If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the~~ THE"

Insert: "If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the"

11. Amend page 5, section 4, subsection (6), line 9.

Following: "IS"

Strike: "GREATER"

Insert: "smaller"

CONTINUED

HOUSE OF REPRESENTATIVES March 26, 1975

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 175

12. Amend page 9, following line 8.

Insert: A new section 14.

"Section 14. Effective date. This act is effective upon passage and approval."

BE CONCURRED IN AS AMENDED

March 26, 1975

Mr. Speaker: We, your Committee on Natural Resources, having had under consideration Senate Bill No. 175, respectfully report as follows: That Senate Bill No. 175 be amended in the Third Reading bill as follows:

1. Amend title, page 1, line 8.
Following: "funding"
Insert: "; and providing an effective date"

2. Amend page 2, section 2, subsection (1), lines 1 through 5.
Following: "lakeshore,"
Strike: "occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area),"

3. Amend page 2, section 2, subsection (1), line 17.
Following: "apply to"
Strike: "natural"

4. Amend page 2, section 2, subsection (2), line 20.
Following: "elevation"
Insert: ", including the land within one hundred (100) feet above that high water elevation"

5. Amend page 3, section 3, line 9.
Following: "lake"
Insert: "or its lakeshore"

6. Amend page 3, section 3, lines 15 and 16.
Following: "lagooning;"
Strike: "and filling"
Insert: "filling; and constructing breakwaters of pilings"

7. Amend page 3, section 4, subsection (1), line 25.
Following: "regulations"
Strike: ", in the form of criteria,"

8. Amend page 4, section 4, subsection (1), line 1.
Following: "lakes"
Insert: "and on lakeshores"

9. Amend page 4, section 4, subsection (2), lines 6 through 17.
Strike: subsection (2) in its entirety.
Insert: a new subsection (2) to read:
"(2) The regulations shall include minimum standards in the following categories:

(a) safe and healthful conditions for the enjoyment of aquatic recreation;

(b) demands of water traffic, boating and water sports;

(c) requirements necessary to assure proper operation of septic tank disposal fields near lakes;

(d) building setbacks from the water;

(e) preservation of shore growth and cover;

(f) shoreland layouts for residential and commercial development;

(g) restriction of filling ponds, lakes and reservoirs;

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(h) regulation of the construction and operation of wharves and docks."

10. Amend page 5, section 4, subsection (6), lines 4, 5 and 6.
Following: "(6)"
Strike: "[If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the] The"
Insert: "If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the"

11. Amend page 5, section 4, subsection (6), line 9.
Following: "is"
Strike: "greater"
Insert: "smaller"

12. Amend page 9, following line 8.
Insert: a new section 14.

"Section 14. Effective date. This act is effective upon passage and approval."

And as amended, be concurred in.

(Material in brackets denotes cancelled type.)

BRADLEY, Chairman

Report adopted.

March 26, 1975

Mr. Speaker: We, your Committee on Legislative Administration, having had under consideration House Resolution No. 5, respectfully report as follows: That House Resolution No. 5 be adopted.

STOLTZ, Vice-Chairman

Report adopted.

March 26, 1975

Mr. Speaker: We, your Committee on Taxation, having had under consideration Senate Bill No. 230, respectfully report as follows: That Senate Bill No. 230 be amended in the Third Reading copy as follows:

1. Amend page 2, section 1(i), line 24.
Following: "wholesaler"
Insert: ", sub-jobber, or retailer for ten (10) or more cigarette vending machines, which he operates for a profit in premises or locations other than his own. Such person shall be treated as a wholesaler. Any person who operates less than ten (10) cigarette vending machines shall be treated as a retailer."

2. Amend page 3, section 1 (i), lines 5, 6, 7.
Following: "[retailer.]"
Strike: all remaining material in subsection (i) in its entirety.

3. Amend page 3, section 1 (j), line 14.
Following: "sub-jobbers."
Insert: "It is further provided that a sub-jobber shall use the license in the interest of the general public. If during any month, more than thirty-five percent (35%) of volume of cigarette sales be with any retail client whose business is controlled directly or indirectly through sanguinity or affinity with the owner, or employer for such retail business, the license shall be deemed to have been used or to be intended to be used in violation of section 84-5606.8."

Ayes: Aageson, C. R. Anderson, J. Anderson, Bardanouve, Bradley, Driscoll, Dussault, Ellis, Fabrega, Finley, Gilligan, Gunderson, Guthrie, Harper, Helmbrecht, Huennekens, Johnson, Kelly, Kemmis, Kimble, Kummerfeldt, Kvaalen, Lester, Lory, Luebeck, Lynch, McFadden, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, Palmer, Quilici, Richards, Robbins, Scully, Sloan, Stoltz, Teague, Travis, Tropila, Vincent, Williams, Wood, Yardley, Mr. Speaker. Total 48.

Noes: Asher, Babcock, R. Baeth, W. Baeth, Barrett, Bertelsen, Brand, Casey, Conroy, Ellerd, Ellison, Federico, Fishbaugh, Fleming, Gerke, Gould, Gwynn, Hageman, Hager, Halvorson, Herlevi, Hubing, Johnston, Kanduch, Kendall, Kropp, Lien, Lockrem, Lund, Magone, Manuel, Marks, Jack Moore, Rasmussen, Schye, Seifert, Smith, Staigmiller, Thomas, Underdal, Wolfe, Wyrick. Total 42.

Paired: Huennekens, Aye; Jack Moore, Nay.

Excused: Day, Sivertsen. Total 2.

Absent or not voting: Bengtson, Dassinger, Fagg, Holmes, Jacobsen, O'Connell, Shelden, South. Total 8.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Driscoll moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading under the rules of the previous sitting. Motion carried.

Aageson in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

March 27, 1975

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Bill No. 78 be concurred in. (75-8)

That Senate Bill No. 175 be concurred in. (71-5)

That Senate Bill No. 221 be passed to the bottom of the board.

That Senate Bill No. 227 be passed below Senate Bill No. 395 on the board.

That Senate Bill No. 230 be concurred in. (56-15)

That Senate Bill No. 233 be concurred in. (55-28)

That Senate Bill No. 246 be placed below Senate Bill No. 108 on the board.

That Senate Bill No. 316 be concurred in. (55-21)

That Senate Bill No. 348 be passed for the day.

Holmes present at this time.

That Senate Bill No. 395 be concurred in. (51-27)

That Senate Bill No. 227 be amended as follows:

1. Amend Public Health, Welfare and Safety Amendment No. 1.
Strike: the amendment in its entirety.

3-27-75

2. Amend page 5, section 2, subsection (3), lines 4 through 6.
Following: "department"
Strike: the remainder of subsection (3) in its entirety.
Insert: "shall be as follows:

(i) The developer shall present to the department a preliminary plan of the proposed development and whatever information the developer feels necessary for its subsequent review. Within sixty (60) days of this submission, based upon its receipt by the department, the department shall notify the developer if the material submitted is satisfactory and if not what additional information is required for subsequent action by the department.

(ii) If additional information is necessary no further processing will be made on the request until the missing information is made available to the department by the developer.

(iii) The department must notify the developer within thirty (30) days if his submission of additional requested material is satisfactory. If the material is not satisfactory, the provision of subsection (ii) shall apply.

(iv) After the department has notified the developer that they have all the necessary information required for review, the department must give final action of the proposed plan within sixty (60) days, unless an environmental impact statement is required, at which time this deadline may be increased to one hundred twenty (120) days." (65-1)

And as amended, be concurred in. (61-15)

That the Governor's Amendments to Senate Bill No. 108 be concurred in as follows:

1. Amend page 1, section 1, line 19.
Following: "This"
Strike: "act"
Insert: "section"

2. Amend page 1, section 1, line 23.
Following: "."
Insert: "Furthermore, for communications public utilities, the provisions of this section shall not apply to advertising which relates to special equipment that is available to aid the handicapped or to special services that are designed to protect the public health, welfare and safety or promote more efficient use of a communications system." (63-23)

That Senate Bill No. 246 be amended as follows:

1. Amend Labor Committee amendments dated March 26, 1975, Amendment No. 7.
Following: "business"
Insert: "or rental housing" (67-5)

And as amended, be concurred in. (48-34)

That Senate Bill No. 31 be passed for the day.

That the Committee rise and report and beg leave to sit again.

AAGESON, Chairman

Marks moved that Senate Bill No. 246 be segregated from the Committee of the Whole report and as amended be adopted.

070

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 512: Kimble, Chairman, Bradley, and Fagg.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 557: Driscoll, Chairman, Kemmis and Schye.

The Speaker appointed the following new joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 627: Bengtson, Chairman, Gunderson and Smith.

REPORTS OF STANDING COMMITTEES

March 28, 1975

The following bills and resolution were signed in the office of the Speaker of the House of Representatives on March 27, 1975: Senate Bills Nos. 39, 51, House Bills Nos. 247, 454, 513, House Joint Resolution No. 47.

Edwin A. Smith, Chief Clerk
House of Representatives

MESSAGES FROM THE OTHER HOUSE

March 27, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day on Committee of the Whole, recommended that further action be indefinitely postponed, report adopted, and the said bill is herewith returned to the House:

House Bill No. 181, introduced by Teague, Vincent

Respectfully yours,

John N. Hanson
Secretary of the Senate

March 26, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day on Committee of the Whole, recommended that further action be indefinitely postponed, report adopted, and the said bill is herewith returned to the House:

House Bill No. 10, introduced by Yardley, Stoltz

Respectfully yours,

John N. Hanson
Secretary of the Senate

March 27, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day on Committee of the Whole, recommended that further action be indefinitely postponed, as amended, report adopted, and the said bill is herewith returned to the House:

House Bill No. 153, introduced by Bardanouve, Meloy, et al

3-28-75

Respectfully yours,

John N. Hanson
Secretary of the Senate

MOTIONS

Scully moved that the Senate Amendments to House Bill No. 666 on Second Reading be placed at the top of the board.

Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 175 was concurred in by the following vote:

Ayes: C. R. Anderson, Asher, R. Baeth, W. Baeth, Barrett, Bengtson, Bertelsen, Bradley, Casey, Conroy, Driscoll, Dussault, Ellerd, Ellis, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Gwynn, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kelly, Kemmis, Kendall, Kimble, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Menahan, Jack Moore, James Moore, Mular, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Shelden, South, Stoltz, Teague, Thomas, Underdal, Vincent, Williams, Wolfe, Yardley, Mr. Speaker. Total 74.

Noes: Aageson, Bardanouve, Ellison, Guthrie, Mercer, O'Connell, Seifert, Sivertsen, Smith, Staigmiller, Tropila, Wood, Wyrick. Total 13.

Excused: Day, Kropp. Total 2.

Absent or not voting: J. Anderson, Babcock, Brand, Dassinger, Fabrega, Kanduch, Meloy, Murphy, Palmer, Sloan, Travis. Total 11.

Senate Bill No. 227 was concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Casey, Conroy, Dassinger, Driscoll, Dussault, Ellis, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Hageman, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Huennekens, Jacobsen, Johnson, Johnston, Kelly, Kemmis, Kendall, Kimble, Kummerfeldt, Kvaalen, Lester, Lien, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Menahan, Jack Moore, James Moore, Mular, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmiller, Stoltz, Thomas, Travis, Underdal, Vincent, Williams, Wolfe, Wood, Yardley, Mr. Speaker. Total 80.

Noes: Asher, Ellerd, Ellison, Gwynn, Hager, Hubing, Lockrem, Marks, Mercer, O'Connell, Teague, Tropila, Wyrick. Total 13.

Excused: Day, Kropp. Total 2.

Absent or not voting: Babcock, Brand, Kanduch, Meloy, Murphy. Total 5.

Senate Amendments to House Bill No. 13 were concurred in by the following vote:

077

House Bill No. 712, introduced by Bardanouve, Smith: A bill for an act entitled: "An act to appropriate money for capital projects for the biennium ending June 30, 1977, and providing for other matters relating to the appropriations." Referred to Committee on Appropriations.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Driscoll moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading, under the rules of the previous sitting.

Motion carried.

Wolfe in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

April 2, 1975

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Amendments to House Bill No. 516 be not concurred in. (68-8)

That House Bill No. 426 be passed to the bottom of the board.

That Senate Bill No. 24 be not concurred in. (49-45)

That Senate Bill No. 220 be amended as follows:

1. Amend in the title, page 1, line 6.
Following: "for"
Strike: "income taxes and for"

2. Amend in the title, page 1, line 10.
Following: "yield"
Strike: "thus increased" (78-0)

Sivertsen and Fishbaugh present at this time.

And as amended, be not concurred in. (57-41)

That the Committee rise and report and beg leave to sit again.

WOLFE, Chairman

Kemmis moved that Senate Bill No. 24 be segregated from the Committee of the Whole Report and as amended be adopted.

Motion failed.

Thereupon, the report was adopted.

MOTIONS

Lockrem moved that the House override the Governor's veto of Senate Bill No. 292.

Motion failed. (44-50)

Halvorson moved that consideration of the Governor's Amendments to House Bill No. 623 be passed for the day.

Motion carried.

Driscoll moved that the House reconsider its action in passing Senate

078

4-2-75

Bill No. 175 on Third Reading and that it be taken from engrossing and placed on Second Reading.

Motion carried.

House recessed.

House resumed. Mr. Speaker in the Chair.

Hageman present at this time.

COMMUNICATIONS AND PETITIONS

April 2, 1975

Memorandum

To: All House Representatives

From: Pat McKittrick,
Speaker of the House

If you are assigned to be a Chairman for a House Conference Committee on a House Bill, a House Committee Secretary will be required to draft the Conference Committee Report.

If you would please contact Wanda Gough, in the House Steno Pool, she will assign appropriate committee secretaries to take the minutes, and use the correct procedure to type up the report to be signed by your committee members, and then submit it to the Chief Clerk's office.

Please follow this procedure, since correct conference reports are extremely important to each bill.

Thank you.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 29: Gerke, Chairman, Conroy, and Aageson.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 76: Jim Moore, Chairman, W. Baeth, and Kropp.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 192: Yardley, Chairman, Scully, and Fagg.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 112: Scully, Chairman, Lester, and Hager.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 235: Vincent, Chairman, Fagg, and Meloy.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 264: Robbins, Chairman, Kendall, and Marks.

SPECIAL ORDERS OF THE DAY

The Speaker introduced Mr. Jack Doyle, Director of the Western office of the Council of State Governments, who briefly addressed the assembly.

The Speaker then appointed Representatives Bardanouve and Kvaalen to escort Mr. Doyle from the chambers.

Motion carried.

Driscoll moved that the Speaker be authorized to appoint a joint conference committee of three to meet with a like committee from the Senate to confer on House Amendments to Senate Bill No. 310.

Motion carried.

Scully moved that the House reconsider its action of the previous legislative day in passing the Senate Amendments to House Bill No. 177 on Third Reading and that the bill be taken from enrolling and the Senate Amendments to the bill be rereferred to Second Reading.

Motion carried.

Gerke moved that the House request the Senate to return Senate Bill No. 24 to the House and that the House reconsider its action of the previous legislative day in failing to pass Senate Bill No. 24 on Second Reading.

Motion carried.

Menahan moved that House Bill No. 218 be placed below Senate Bill No. 340 on Second Reading.

Motion carried.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Meloy moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading, under the rules of the previous sitting.

Motion carried.

Kendall in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

April 3, 1975

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Governor's Amendments to House Bill No. 623 be concurred in as follows:

1. Amend page 5, section 2, line 4.
Following: "any"
Insert: "new"

2. Amend page 5, section 2, lines 4 and 5.
Following: "vehicle"
Strike: ", whether new or used"

3. Amend page 5, section 2, lines 8 through 11.
Following: "defined"
Strike: ", with the exception of used mobile homes or recreational vehicles which have a written notice informing the purchaser, and signed by the purchaser, of possible noncompliance with such standards" (58-26)

That Senate Bill No. 27 be not concurred in. (53-41)

That Senate Bill No. 175 be amended as follows:

1. Amend the Natural Resources Committee Amendments dated March 20, 1975, Amendments Nos. 1 through 9.

079

4-3-75

Strike: these amendments in their entirety. (65-8)

And as amended, be concurred in. (62-22)

That Senate Bill No. 206 be concurred in. (38-32)

That the following Governor's Amendments to Senate Bill No. 340 be concurred in:

1. Amend page 2, Section 1, line 8.
Following: "(8)"
Strike: "the employees and staff of the state school for the deaf and blind whose compensation and qualifications are determined by the board of public education under section 80-104"
Insert: "academic and professional administrative personnel who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education" (75-0)

That the Committee rise and report and beg leave to sit again.

KENDALL, Chairman

Report adopted.

House recessed.

House resumed. Mr. Speaker in the Chair.

COMMUNICATIONS AND PETITIONS

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 310: Shelden, Chairman, Vincent and J. Anderson.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 516: Gunderson, Chairman, Yardley and Kvaalen.

REPORTS OF STANDING COMMITTEES

April 3, 1975

Mr. Speaker: We, your Committee on Legislative Administration, recommend that the following be terminated by the House of Representatives for the Forty-fourth Session at the close of business April 2, 1975:

Denita Jo Lyle.....Page

At the beginning of business March 31, 1975, the following also be employed:

Susan Cerovski.....Page
Beth Watkins.....Page
John Eisenhauser.....Page
Steve Wetstein.....Page
Michael Lahr.....Page
Kristen Walters.....Page
Kathy Walters.....Page
John Henstad.....Page

At the beginning of business April 2, 1975, the following also be employed:

Shauna Jo Kottas.....Page
Lana Elbert.....Page

At the close of business March 14, 1975, the following also be terminated:

April 4, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the House Amendments to Senate Bill No. 250 were this day concurred in by the Senate.

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 4, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate this day did accede to the request for the return of Senate Bill No. 220, and is herewith returning the said bill to the House for further consideration.

Respectfully yours,

John N. Hanson
Secretary of the Senate

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 175 was concurred in by the following vote:

Ayes: C. R. Anderson, J. Anderson, Babcock, R. Baeth, W. Baeth, Barrett, Bengtson, Bertelsen, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Kanduch, Kelly, Kemmis, Kendall, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, Palmer, Quilici, Rasmussen, Richards, Robbins, Scully, Shelden, Sloan, South, Stoltz, Teague, Thomas, Travis, Underdal, Vincent, Williams, Wolfe, Mr. Speaker. Total 80.

Noes: Aageson, Asher, Ellison, Fabrega, Gwynn, Johnston, Kropp, Jack Moore, O'Connell, Schye, Seifert, Sivertsen, Smith, Staigmiller, Tropila, Wood, Wyrick. Total 17.

Excused: None.

Absent or not voting: Bardanouve, Kimble, Yardley. Total 3.

Senate Amendments to House Bill No. 183 were concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Lund, Lynch, McFadden, Magone, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sloan, Smith, South, Staigmiller, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Mr. Speaker. Total 96.

Noes: None.

Excused: None.

Absent or not voting: Kimble, Luebeck, Sivertsen, Yardley. Total 4.

Senate Amendments to House Bill No. 372 were concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Casey, Conroy, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, Jack Moore, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmiller, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Mr. Speaker. Total 96.

Noes: Dassinger. Total 1.

Excused: None.

Absent or not voting: Johnson, Kimble, Yardley. Total 3.

Senate Amendments to House Bill No. 439 were concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Hageman, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmiller, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Mr. Speaker. Total 92.

Noes: Jack Moore. Total 1.

Excused: None.

Absent or not voting: Bertelsen, Gwynn, Hager, Kendall, Kimble, Luebeck, Yardley. Total 7.

Senate Amendments to House Bill No. 460 were concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison,

4-4-75

080

April 8, 1975

Honorable W. Gordon McOmber
President of the Senate
State Capitol

Honorable Pat McKittrick
Speaker of the House of Representatives
State Capitol

Dear President McOmber and Speaker McKittrick:

In exercising the constitutional powers conferred upon me as Governor, I return Senate Bill No. 135, "AN ACT TO AMEND SECTION 82-4204, R.C.M. 1947, TO PROVIDE FOR PUBLICATION AND MAILING OF NOTICE OF PROPOSED RULES AT LEAST THIRTY (30) DAYS PRIOR TO THE AGENCY'S INTENDED ACTION; TO PROVIDE TWENTY (20) DAYS TO SUBMIT DATA; AND TO PROVIDE FOR THE EXTENSION OF A HEARING DATE UP TO TWENTY (20) DAYS", without my signature and recommend the following amendments.

Under rules adopted by the Secretary of State's Office for publication of notices under the Administrative Procedure Act, all proposed rules must be filed with the Secretary of State's Office prior to the 10th of each month. Therefore, the thirty day notice requirement as proposed in Senate Bill No. 135 virtually precludes the preparation and adoption of final rules for submission to the Secretary of State for inclusion in the Administrative Procedure Act before the filing deadline for the succeeding month. In other words, even in situations where there are no comments on the proposed adoption of rules, the agency would have to wait two months before final rules could be adopted. Therefore, I am requesting that the thirty day notice requirement be reduced to the twenty day notice requirement contained originally in the Administrative Procedure Act.

My proposed amendment #4 reduces from twenty days to fourteen days the minimum amount of time that must be afforded interested persons to comment upon proposed rules. This time reduction is consistent with my other proposed amendments to reduce from thirty days to twenty days the notice requirments of the Administrative Procedure Act.

I must emphasize that these proposed amendments do not affect what I consider to be the most important amendment to the Administrative Procedure Act in Senate Bill No. 135. That amendment is found on page two of the bill and provides that an interested person may file a written request with the agency to extend a hearing date up to twenty days. This substantive change is needed and I wholeheartedly concur in that amendment.

I thank you for your consideration of this matter.

Sincerely,

THOMAS L. JUDGE
Governor

Recommended amendments referred to Second Reading.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The following communications from the House were received and read:

April 5, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following House Joint Resolution was this day read three several times, and passed, title and history agreed to, and the joint resolution is herewith transmitted to the Senate for concurrence:

House Joint Resolution No. 67 introduced by McKittrick, Lockrem

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 7, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the Governor's Amendments to Senate Bill No. 198 were this day concurred in on Third Reading, and the bill is herewith returned to the Senate.

Respectfully,

EDWIN A. SMITH
Chief Clerk

March 28, 1975

Mr. President:

I am directed by the House of Represenatives to inform your Honorable Body that the following Senate Bill was this day read three times, and concurred in as amended, title and history agreed to and the said bill is herewith returned to the Senate for concurrence in House Amendments:

Senate Bill No. 175 introduced by Brown, Roberts

Respectfully,

EDWIN A. SMITH
Chief Clerk

MOTIONS

Upon motion of Senator Watt, duly carried, that House Bill No. 114 be taken from Second Reading and be rereferred to the Committee on Taxation.

FIRST READING OF HOUSE BILLS

The following House Joint Resolution was introduced, posted and referred:

HOUSE JOINT RESOLUTION NO. 67, introduced by McKittrick, Lockrem, Kimble: A Joint Resolution of the Senate and the House of Representatives to the State of Montana urging the Department of Highways to help decrease unemployment by offering a sufficient number of highway projects for bidding and construction in this construction season. Referred to Committee on Highways and Transportation.

At the request of the President, and without objection, the Senate passed to Order of Business No. 9.

THIRD READING OF BILLS

House Bill No. 541, having been read three several times, failed by the following roll call vote:

081

Having further considered House Bill No. 401, the Free Joint Conference Committee further recommends:

That House Bill No. 401, reference bill, be amended as follows:

1. Amend title, page 1, line 9.
Following: "members;"
Strike: "and"

2. Amend title, page 1, line 10.
Following: "1947"
Insert: "; and providing an effective date"

3. Amend page 5, following line 10.
Insert: a new section as follows:

"Section 3. This act is effective on its passage and approval."

And that House Bill No. 401, as so amended, be concurred in.

FOR THE HOUSE:

DAY
HAGER

FOR THE SENATE:

FLYNN, Chairman
McCALLUM

April 9, 1975

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Bill No. 412, met April 5, 1975, and April 9, 1975, and considered:

Senate Committee on Judiciary Amendments dated March 20, 1975,

Senate Committee of the Whole Amendment dated March 25, 1975, and

recommend as follows:

Having had under consideration Senate Committee on Judiciary Amendments dated March 20, 1975,

That the House accede to Amendment Nos. 1, 2, 3, 5, and 6,

And further that the Senate recede from Amendment No. 4,

And further that House Bill No. 412, third reading bill, be amended as follows:

4. Amend page 3, section 2, subsection (1) (e), line 14.
Following: "(e)"
Insert: "knowingly"

Having had under consideration Senate Committee of the Whole Amendment dated March 25, 1975,

That the House accede to Amendment No. 1,

And that House Bill No. 412, as so amended, be concurred in.

FOR THE HOUSE:

MELOY, Chairman
HALVORSON
RASMUSSEN

FOR THE SENATE:

TOWE, Chairman
WARDEN
TURNAGE

MESSAGES FROM THE GOVERNOR

The following communication from the Governor was received and read:

4-9-75

April 9, 1975

The Honorable W. Gordon McOmber
President of the Senate
State Capitol
Helena, Montana 59601

Dear Mr. President:

I have the honor to inform you that I have this day approved Senate Bills Nos. 164 and 337.

Sincerely,

THOMAS L. JUDGE
Governor

MOTIONS

Upon motion of Senator Lynch, duly carried, that the Joint Conference Committee on Senate Amendments to House Bill No. 103 be dissolved and the President be authorized to appoint a new Conference Committee of three to meet with a like committee from the House to confer on Senate Amendments to House Bill No. 103.

The President appointed the following committee:

Boylan, Chairman
Murphy
Galt

Upon motion of Senator Lynch, duly carried, that the President be authorized to appoint a Conference Committee of three to meet with a like committee from the House to confer on House Amendments to Senate Bill No. 175.

The President appointed the following committee:

Manley, Chairman
Conover
Brown

Upon motion of Senator Lynch, duly carried, that the Joint Conference Committee on Senate Amendments to House Bill No. 633 be dissolved and the President be authorized to appoint a new Free Conference Committee of three to meet with a like committee from the House to confer on House Bill No. 633.

The President appointed the following committee:

Towe, Chairman
Regan
Drake

Motion was made by Senator Lynch that Rule 6-1 of the Joint Rules of the Forty-fourth Legislature be temporarily suspended in order to allow the introduction of a bill pertaining to amending the 1975 Bond Validating Act and providing an immediate effective date. Motion unanimously carried.

Motion was made by Senator Lynch that the rules of the Forty-fourth Legislature be temporarily suspended in order to allow Senate Bill No. 405 considered on Second Reading to be placed on Third Reading for consideration this Legislative Day.

11 a. Amend page 7, section 14, subsection (1), line 14.
Following: "complaint"
Insert: "for redress of the violation"

11 b. Amend page 7, section 14, subsection (1), line 15.
Following: "rights"
Strike: the remainder of subsection (1) in its entirety
Insert: "and upon filing that complaint may, in addition, petition the district court in the district where the complainant resides or where the alleged violation occurred for appropriate relief, and the court may grant such relief, by injunction or otherwise, as it considers appropriate. Commencement of the administrative remedy does not preclude the judicial remedy."

And that House Bill No. 8, as so amended, be concurred in.

FOR THE HOUSE:

STOLTZ, Chairman
MAGONE
ASHER

FOR THE SENATE:

SEIBEL, Chairman
MEHRENS
STEPHENS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The following communications from the House were received and read:

April 9, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following House Bill, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the House, was this day read three several times and passed, and is herewith transmitted to the Senate for concurrence with the following vote:

House Bill No. 576 introduced by Driscoll by request

HOUSE OF REPRESENTATIVES

YEAS - 82
NAYS - 16

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 9, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the following House Bill, requiring adoption by an affirmative roll call vote of three-fifths of the members of each house of the legislature, was read three several times, and passed, and is herewith transmitted to the Senate for concurrence with the following House vote:

House Bill No. 254 introduced by Fagg, Kemmis

HOUSE OF REPRESENTATIVES

YEAS - 64
NAYS - 34

4-10-75

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 10, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day acceded to the request of the Senate dated April 10, 1975, and authorized the Speaker to appoint a Conference Committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 175.

The Speaker appointed the following members:

Al Luebeck, Chairman
Dorothy Bradley
Fred Barrett

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 10, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day, April 10, 1975, on motion duly carried, dissolved the Conference Committee on Senate Amendments to House Bill No. 581, and the Speaker was authorized to appoint a Free Conference Committee to meet with a like committee of the Senate to confer on House Bill No. 581. The House respectfully requests the Senate to appoint a like committee on House Bill No. 581.

The Speaker appointed the following members:

Herb Huennekens, Chairman
Mike Meloy
Orval Ellison

Respectfully,

EDWIN A. SMITH
Chief Clerk

MOTIONS

Upon motion of Senator Lynch, duly carried, that consideration of the following bills on Second Reading be passed for this Legislative Day: Conference Committee Report on Senate Amendments to House Bill No. 161, Conference Committee Report on House Amendments to Senate Bill No. 329, Free Conference Committee Report on Senate Bill No. 330, Conference Committee Report on House Amendments to Senate Bill No. 367, Conference Committee Report on House Amendments to Senate Bill No. 395, House Bill No. 114, House Joint Resolution No. 67, Free Conference Committee Report on House Bill No. 401, Conference Committee Report on Senate Amendments to House Bill No. 412, Free Conference Committee Report on House Bill No. 586, and Free Conference Committee Report on House Bill No. 613, Senate Bill No. 406.

to meet with a like committee of the Senate to confer on House Bill No. 642: Halvorson, Chairman, Dassinger and Fagg.

The Speaker appointed the following free joint conference committee to meet with a like committee of the Senate to confer on House Bill No. 663: Halvorson, Chairman, Conroy, and Fagg.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 121: R. Baeth, Chairman, Fagg, and Quilici.

MOTIONS

Driscoll moved that the Speaker be authorized to appoint a joint conference committee of three to meet with a like committee from the Senate to confer on Senate Amendments to House Bill No. 531.

Motion carried.

Meloy moved that the Governor's Amendments to House Bill No. 531 be placed on Second Reading on the Seventy-eighth Legislative Day.

Motion carried.

Driscoll moved that the House adjourn until 1:30 p.m., April 10, 1975.

Motion carried.

House adjourned.

PAT MC KITTRICK, Speaker

EDWIN A. SMITH, Chief Clerk

SEVENTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
April 10, 1975

House Chambers
Capitol Building

House convened at 1:30 p.m., Mr. Speaker in the Chair.

Invocation by the Chaplain.

Pledge of Allegiance to the Flag.

Roll call. All members present except Federico, Kimble, Robbins, and Seifert, excused.

Quorum present.

Mr. Speaker: We, your Committee on Bills and Journal, having examined the daily journal for the Seventy-seventh Legislative Day, find the same to be correct.

QUILICI, Chairman

COMMUNICATIONS AND PETITIONS

The Speaker appointed the following new joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 76: Finley, Chairman, Jack Moore, and Rasmussen.

REPORTS OF STANDING COMMITTEES

April 10, 1975

The following bills and resolution will be signed on adjournment on April 10, 1975, in the office of the Speaker of the House of Representatives: Senate Bills Nos. 57, 61, 93, 123, 233, 250, 252, 253, 268, 305, 308, 319, 352, 386, Senate Joint Resolution No. 22.

Edwin A. Smith, Chief Clerk
House of Representatives

April 10, 1975

The following bills were signed in the office of the Speaker of the House of Representatives on April 9, 1975: House Bills Nos. 55, 335, 338, 469, 539, 621, 627, 648.

Edwin A. Smith, Chief Clerk
House of Representatives

April 10, 1975

The following bills and resolution were signed in the office of the Speaker of the House of Representatives on April 9, 1975: Senate Bills Nos. 278, 340, Senate Joint Resolution No. 30, House Bills Nos. 183, 367, 372, 389, 400, 446, 461, 566, 597, 650, 666.

Edwin A. Smith, Chief Clerk
House of Representatives

MESSAGES FROM THE OTHER HOUSE

April 10, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the

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Senate this day failed to concur in House Amendments to Senate Bill No. 175, and the President was authorized to appoint a Conference Committee, and the Senate respectfully requests the House to appoint a like committee to confer on House Amendments to Senate Bill No. 175.

The President appointed the following members:

Senator Manley, Chairman
Senator McOmber
Senator Brown

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 9, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate this day on Committee of the Whole failed to concur in the Conference Committee on Senate Amendments to House Bill No. 103, and the President was authorized to appoint a New Conference Committee, and respectfully requests the House to appoint a like committee to confer on Senate Amendments to House Bill No. 103.

The President appointed the following members:

Senator Boylan, Chairman
Senator Murphy
Senator Galt

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 9, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate this day on motion, duly carried, dissolved the Conference Committee on Senate Amendments to House Bill No. 633, and the President was authorized to appoint a Free Conference Committee, and the Senate respectfully requests the House to appoint a like committee to confer on House Bill No. 633.

The President appointed the following members:

Senator Towe, Chairman
Senator Regan
Senator Drake

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 9, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Senate Bill was this day read three several times, and passed, title and history agreed to, and the said bill is herewith transmitted to the House for concurrence:

Senate Bill No. 405, introduced by Foster, Turnage

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 9, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day on Committee of the Whole, recommended that further action be indefinitely postponed, report adopted, and the said bill is herewith returned to the House:

House Bill No. 36, introduced by Teague, Lynch, et al

Respectfully yours,

John N. Hanson
Secretary of the Senate

MOTIONS

Meloy moved that consideration of the Governor's Amendments to House Bill No. 396 and House Bill No. 531 be passed for the day.

Motion carried.

Huennekens moved that the Conference Committee on House Bill No. 581 be dissolved and that the Speaker be authorized to appoint a new free joint conference committee to meet with a like committee of the Senate to confer on House Bill No. 581.

Motion carried.

Jack Moore moved that consideration of Senate Joint Resolution No. 31 be passed for the day.

Motion carried.

Mercer moved that the Conference Committee Report on Senate Bill No. 367 be placed below the Conference Committee Report on Senate Bill No. 330 on the Second Reading board.

Motion carried.

Barrett moved that the rules be temporarily suspended to allow the acceptance in the House of Senate Bill No. 405.

Motion carried by a two-thirds majority vote.

Driscoll moved that the Speaker be authorized to appoint a joint conference committee to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 557.

Motion carried.

Driscoll moved to expunge all actions in the House Journal on House Bills Nos. 218, 426, and 532, backdating through adoption of the Senate Amendments on Second Reading March 27, 1975, and place Senate

Senator Norman, Chairman
Senator Lynch
Senator Stephens

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 10, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Conference Committee Report on House Amendments to Senate Bill No. 264.

Respectfully yours,

John N. Hanson
Secretary of the Senate

FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following bill was introduced, read first time and referred to committee:

Senate Bill No. 405, introduced by Foster, Turnage: A bill for an act entitled: "An act authorizing a county to issue revenue bonds for the construction of a county hospital or nursing home; authorizing a levy on taxable property." Referred to Committee on Public Health, Welfare and Safety.

MOTIONS

Jack Moore moved that the Conference Committee on House Bill No. 73 be dissolved and that the Speaker be authorized to appoint a new joint conference committee of three to meet with a like committee of the Senate to confer on Senate Amendments to House Bill No. 73.

Motion carried.

Conroy moved that the Speaker be authorized to appoint a new joint conference committee of three to meet with a like committee from the Senate to confer on House Amendments to Senate Bill No. 342.

Motion carried.

Menahan moved that the Speaker be authorized to appoint a free joint conference committee of three to meet with a like committee from the Senate to confer on House Bill No. 218.

Motion carried.

Hager moved that the Conference Committee on House Bill No. 401 be dissolved and that the Speaker be authorized to appoint a new free joint conference committee of three to meet with a like committee from the Senate to confer on Senate Amendments to House Bill No. 401.

Motion carried.

Driscoll moved that the Speaker be authorized to appoint a joint conference committee of three to meet with a like committee from the Senate to confer on House Amendments to Senate Bill No. 175.

Motion carried.

Driscoll moved that the Speaker be authorized to appoint free joint conference committees of three to meet with like committees from the Senate to confer on House Bill No. 426 and House Bill No. 532.

Motion carried.

UNFINISHED BUSINESS

The Speaker appointed the following new free joint conference committee to meet with a like committee of the Senate to confer on House Bill No. 401: Bradley, Chairman, Day, and Hager.

The Speaker appointed the following joint conference committee to meet with a like committee of the Senate to confer on House Amendments to Senate Bill No. 175: Luebeck, Chairman, Bradley, and Barrett.

REPORTS OF SELECT COMMITTEES

April 9, 1975

Joint Conference Committee Report
On Senate Amendments to House Bill No. 8

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Bill No. 8, met April 4 and April 9, 1975, and considered Senate Committee on Judiciary Amendments dated March 18, 1975, and recommend as follows:

That the House accede to Amendments Nos. 1 through 10,

And further that the Senate recede from Amendment No. 11,

And further that House Bill No. 8, Third Reading bill, be amended as follows:

11 a. Amend page 7, section 14, subsection (1), line 14.
Following: "complaint"
Insert: "for redress of the violation"

11 b. Amend page 7, section 14, subsection (1), line 15.
Following: "rights"
Strike: the remainder of subsection (1) in its entirety.
Insert: "and upon filing that complaint may, in addition, petition the district court in the district where the complainant resides or where the alleged violation occurred for appropriate relief, and the court may grant such relief, by injunction or otherwise, as it considers appropriate. Commencement of the administrative remedy does not preclude the judicial remedy."

And that House Bill No. 8, as so amended, be concurred in.

FOR THE HOUSE:	FOR THE SENATE:
STOLTZ, Chairman	SEIBEL, Chairman
MAGONE	MEHRENS
ASHER	STEPHENS

Report adopted.

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April 14, 1975

Free Joint Conference Committee Report
On House Bill No. 532

Mr. President and Speaker of the House:

We, your Free Joint Conference Committee on House Bill No. 532, met April 14, 1975, and considered Senate Committee on State Administration Amendments dated March 17, 1975, and recommend as follows:

That the House accede to Amendments Nos. 1 and 2,

Having further considered House Bill No. 532, the Free Joint Conference Committee further recommends:

That House Bill No. 532, Third Reading bill, be amended as follows:

1. Amend page 1, section 1, subsection (1), line 17.
Following: "traveled"
Insert: "by automobile"

2. Amend page 1, section 1, subsection (1), lines 19 and 20.
Following: "[plane]"
Strike: "at a rate of twelve cents (12¢) per statute mile,"

3. Amend page 1, lines 24 and 25 and page 2, lines 1 through 5.
Reinsert: subsections (2) and (3) and renumber the subsequent subsection.

And that House Bill No. 532, as so amended, be concurred in.

(Material in brackets denotes cancelled type.)

FOR THE HOUSE:	FOR THE SENATE:
JOHNSTON, Chairman	MURPHY, Chairman
MULAR	ROMNEY
MERCER	ETCHART

Report adopted.

April 12, 1975

Joint Conference Committee Report
On House Amendments to Senate Bill No. 175

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Amendments to Senate Bill No. 175, met April 12, 1975, and considered:

House Committee on Natural Resources Amendments dated March 22 (printed amendments of March 20), 1975,

House Committee on Natural Resources Amendments dated March 26, 1975,

House Committee of the Whole Amendments dated April 3, 1975, and

recommend as follows:

Having had under consideration House Committee on Natural Resources Amendments dated March 22 (printed amendments of March 20), 1975,

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4-14-75

That the Senate accede to Amendments Nos. 1 through 9

Having had under consideration House Committee on Natural Resources Amendments dated March 26, 1975,

That the Senate accede to Amendments Nos. 1, 6, 11, and 12,

And further that the House recede from Amendments Nos. 2 through 5 and 7 through 10,

Having had under consideration House Committee of the Whole Amendments dated April 3, 1975,

That the Senate accede to Amendment No. 1,

And that Senate Bill No. 175, as so amended, be concurred in.

FOR THE SENATE:	FOR THE HOUSE:
MANLEY, Chairman	LUEBECK, Chairman
McOMBER	BRADLEY
BROWN	BARRETT

Report adopted.

April 14, 1975

Free Joint Conference Committee Report
On House Bill No. 265

Mr. President and Speaker of the House:

We, your Free Joint Conference Committee on House Bill No. 265, met April 14, 1975 and considered Senate Committee on Finance and Claims Amendments dated April 7, 1975, and recommend as follows:

That the House accede to Amendments Nos. 1 through 3,

Having further considered House Bill No. 265, the Free Joint Conference Committee further recommends:

That House Bill No. 265, reference bill, be amended as follows:

1. Amend page 6, section 12, line 8.
Following: "ERA"
Strike: "9,952"
Insert: "10,629"

2. Amend page 10, section 12, following line 10.
Insert: new sections as follows and renumber subsequent section:

"Section 13. There is appropriated to the forty-fourth legislature the sum remaining in Senate Bill No. 511, forty-third legislature, second regular session.

Section 14. Any claim made prior to July 1, 1975 for unpaid encumbrances of the forty-third legislature shall be paid from monies appropriated by section 13."

That House Bill No. 265, as so amended, be concurred in.

FOR THE HOUSE:	FOR THE SENATE:
SOUTH, Chairman	ROMNEY, Chairman
THOMAS	THIESSEN
MERCER	DRAKE

Report adopted.

That the House recede from Amendment No. 1,

And further that Senate Bill No. 76, third reading copy, be amended as follows:

1. Amend page 18, section 10, lines 2, 3 and 4.
Following: "receive"
Strike: "the same salary as a state district court judge and shall receive the same salary increases awarded such judges"
Insert: "an annual salary of twenty-one thousand dollars ($21,000) and the salary commission may recommend salary increases to the legislature"

And that Senate Bill No. 76, as so amended, be concurred in.

FOR THE SENATE:	FOR THE HOUSE:
ROBERTS, Chairman	HUENNEKENS, Chairman
HEALY	MOORE
BROWN	LORY

April 12, 1975

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Amendments to Senate Bill No. 175, met April 12, 1975, and considered:

House Committee on Natural Resources Amendments dated March 22 (printed amendments of March 20), 1975,

House Committee on Natural Resources Amendments dated March 26, 1975,

House Committee of the Whole Amendments dated April 3, 1975,

And recommend as follows:

Having had under consideration House Committee on Natural Resources Amendments dated March 22(printed amendments of March 20), 1975,

That the Senate accede to Amendment Nos. 1 through 9

Having had under consideration House Committee on Natural Resources Amendments dated March 26, 1975,

That the Senate accede to Amendment Nos. 1, 6, 11, and 12,

And further that the House recede from Amendment Nos. 2 through 5 and 7 through 10,

Having had under consideration House Committee of the Whole Amendments dated April 3, 1975,

That the Senate accede to Amendment No. 1

And that Senate Bill No. 175, as so amended, be concurred in.

FOR THE SENATE:	FOR THE HOUSE:
MANLEY, Chairman	LUEBECK, Chairman
McOMBER	BRADLEY
BROWN	BARRETT

April 14, 1975

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Bill No. 73, met April 10, 12, and 14, 1975, and considered Senate Committee of the Whole Amendments dated March 18, 1975, and recommend as follows:

That the Senate recede from Amendment Nos. 1 and 2,

And further that House Bill No. 73, third reading bill, be amended as follows:

1a. Amend page 2, section 2, line 19.
Following: "standards"
Strike: "specifications"

1b. Amend page 2, section 2, line 20.
Following: "teams."
Insert: "Such programs of education shall meet with the approval of the board of nursing; however, the board of nursing may not require standards exceeding those required by the American Medical Association."

2a. Amend page 2, section 2, line 21.
Following: "approval"
Strike: ", length of time"

And further that the House accede to Amendment Nos. 3 through 8, and 11 through 13.

And further that the Senate recede from Amendment Nos. 9 and 10,

And further that House Bill No. 73, third reading bill, be amended as follows:

9. Amend page 4, section 3, lines 9 and 10.
Following: "drugs"
Strike: "unless specifically granted approval to do so by the board in writing"
Insert: "or optical lenses, or make a determination of the infractive state of the human eye"

10a. Amend page 4, section 3, line 10.
Following: "writing"
Insert: "(9)"

10b. Amend page 4, section 3, line 12.
Following: "licensure"
Insert: "and which have not been a part of the physicians assistant's board approved training"

And that House Bill No. 73, as so amended, be concurred in.

FOR THE HOUSE:	FOR THE SENATE:
FINLEY, Chairman	
MOORE, Jack	LYNCH
RASMUSSEN	STEPHENS

April 14, 1975

Mr. President and Speaker of the House:

We, your Joint Conference Committee on House Bill No. 271, met April 14, 1975, and considered:

Senate Committee on Finance and Claims Amendments dated April 9, 1975,

April 14, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Conference Committee Report on Senate Amendments to House Bill No. 198

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 14, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate acceded to the request of the House and authorized the President to appoint a New Conference Committee to meet with a like committee of the House to confer on House Amendments to Senate Bill No. 236.

The President appointed the following members:

Senator Norman, Chairman
Senator R. Smith
Senator Dunkle

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 14, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Governor's recommended amendments to Senate Bill No. 278 were this day concurred in and are herewith transmitted to the House for concurrence.

Respectfully yours,

John N. Hanson
Secretary of the Senate

MOTIONS

Lynch moved that the Conference Committee Report on House Bill No. 286 be withdrawn.

Motion carried.

Huennekens moved that the Conference Committee on Senate Bill No. 236 be changed to a free joint conference committee.

Motion carried.

Jack Moore moved that the Free Conference Committee Report on House Bill No. 285 be withdrawn.

Motion carried.

4-15-75

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Meloy moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading under the rules of the previous sitting. Motion carried.

Menahan in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

April 15, 1975

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That the following Governor's Amendment to House Bill No. 648 be concurred in:

1. Amend page 8, section 6, lines 14 and 15.
Strike: "apprenticeship bureau, labor standards division,"
Insert: "department of labor and industry" (71-8)

That the following Governor's Amendments to House Bill No. 666 be concurred in:

1. Amend page 23, section 3, line 7.
Following: "need"
Insert: ", as defined in regulations adopted by the governing body,"

2. Amend page 23, section 3, line 8.
Following: "public opinion"
Insert: "concerning any of the criteria listed in this section" (58-24)

Brand replaces Menahan in the Chair.

That the Senate Amendments to House Bill No. 289 be concurred in. (78-2)

Menahan resumes the Chair.

That the Free Conference Committee Report on House Bill No. 218 be adopted. (86-0)

That the Free Conference Committee Report on House Bill No. 265 be adopted. (78-4)

That the Free Conference Committee Report on House Bill No. 426 be passed to the bottom of the board.

That the Free Conference Committee Report on House Bill No. 532 be adopted. (66-7)

Scully present at this time.

That the Free Conference Committee Report on Senate Bill No. 175 be not adopted. (66-22)

That the Free Conference Committee Report on House Bill No. 453 be adopted. (71-10)

That the Free Conference Committee Report on House Bill No. 426 be passed for the day.

That the Committee rise and report and beg leave to sit again.

MENAHAN, Chairman

089

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The following communications from the House were received and read:

April 15, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House on April 14, 1975, on motion, duly carried, reconsidered its action of the adoption of the Joint Conference Committee Report on House Amendments to Senate Bill No. 342, dated April 9, 1975, dissolved the Conference Committee appointed on April 7, 1975, and the Speaker was authorized to appoint a Free Conference Committee to meet with a like committee of the Senate to confer on Senate Bill No. 342. The House respectfully requests the Senate appoint a like committee to meet with the House.

The Speaker appointed the following members:

J. Melvin Williams, Chairman
Thomas R. Conroy
Lloyd Lockrem

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 14, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that Senate Bill No. 31, was this day read three several times, and concurred in as amended with the following vote, and the said above bill is herewith returned to the Senate for concurrence in House amendments:

Senate Bill No. 31, introduced by Fasbender, Himsl

HOUSE OF REPRESENTATIVES

YEAS - 72
NAYS - 28

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 15, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day, on motion duly carried, changed the New Conference Committee appointed on April 14, 1975 to House Amendments to Senate Bill No. 236, to be a Free Conference Committee on Senate Bill No. 236, with the same members continuing.

Respectfully,

EDWIN A. SMITH
Chief Clerk

090

4-15-75

April 15, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day on motion duly carried, withdrew the Free Conference Committee Reports on the following bills.

Free Conference Committee Report on House Bill No. 285

Free Conference Committee Report on House Bill No. 286

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 14, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day, rescinded its action in requesting a Conference Committee for Senate Amendments to House Bill No. 289, dated April 12, 1975, and Senate Amendments to House Bill No. 289, were placed back on 2nd Reading for the 82nd Legislative Day.

Respectfully,

EDWIN A. SMITH
Chief Clerk

April 15, 1975

Mr. President:

I am directed by the House of Representatives to inform your Honorable Body that the House this day on motion duly carried, dissolved the Conference Committee on House Amendments to Senate Bill No. 175, and the Speaker was authorized to appoint a Free Conference Committee, and the House respectfully requests the Senate to appoint a like committee to meet with a like committee from the House to confer on Senate Bill No. 175.

The Speaker appointed the following members:

Herb Huennekens, Chairman
Peter M. Meloy
Fred Barrett

Respectfully,

EDWIN A. SMITH
Chief Clerk

MOTIONS

Upon motion of Senator Lynch, duly carried, that the Conference Committee on House Amendments to Senate Bill No. 175 be taken from Second Reading and be rereferred to the Conference Committee.

Upon motion of Senator Lynch, duly carried, that the Joint Conference Committee on House Amendments to Senate Bill No. 175 be dissolved and the President be authorized to appoint a Free Conference Committee of three to meet with a like committee from the House to confer on Senate Bill No. 175.

4-15-75

Upon motion of Senator Lynch, duly carried, that the Conference Committee on Senate Amendments to House Bill No. 289 be dissolved.

At this time the President appointed the following Conference Committee on Senate Amendments to House Bill No. 73:

Roberts, Chairman
Murphy
Dunkle

At this time the President appointed the following Conference Committee on House Amendments to Senate Bill No. 175:

Manley, Chairman
McOmber
Brown

Upon motion of Senator Lynch, duly carried, the Senate recessed until the hour of 5:00 p.m.

Senate recessed at 4:25 p.m.

Senate resumed at 5:00 p.m.

Upon motion of Senator Lynch, duly carried, the Senate adjourned at 5:04 p.m., until Wednesday, April 16, 1975, at the hour of 9:00 a.m.

W. GORDON McOMBER
President of the Senate

JOHN N. HANSON
Secretary of the Senate

EIGHTY-THIRD LEGISLATIVE DAY

Helena, Montana
April 16, 1975

Senate Chambers
Capitol Building

Senate convened at 9:00 a.m., President McOmber presiding.

Prayer by the Chaplain and Pledge of Allegiance to the Flag.

Roll call. All members present except Galt and Manley, excused, and Colberg absent.

Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journals for the Eightieth and Eighty-first Legislative Days, find the same to be correct.

WARDEN, Vice-Chairman

REPORTS OF STANDING COMMITTEES

The following committee submitted the following report:

The Senate will take note that the President did, at the hour of 5:00 p.m., April 15, 1975, sign the following bills: Senate Bill No. 310, and House Bills Nos. 53, 184, 512, 528, and 698.

W. GORDON McOMBER
President

Mr. President: We, your Committee on Committees appoint the following Senate members to the Western States Forest Industry Task Force:

Senator Joe R. Roberts
Senator Robert J. Brown

And further appoint the following members to the newly created Administrative Code Committee:

Senator Neil J. Lynch
Senator Jean A. Turnage
Senator Ann Seibel
Senator George F. Roskie

ROMNEY, Chairman

Report adopted.

REPORTS OF SELECT COMMITTEES

The following select committees submitted the following reports:

April 15, 1975

Mr. President and Speaker of the House:

We, your Free Joint Conference Committee on Senate Bill No. 87, met April 7, 8, 9, 10, 11 and 14, 1975, and considered:

House Committee on Taxation Amendments dated March 20, 1975,

House Committee of the Whole Amendments dated March 26, 1975,

and recommend as follows:

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FOR THE SENATE:

NORMAN, Chairman
R. SMITH
DUNKLE

FOR THE HOUSE:

HUENNEKENS,Chairman
R. BAETH
ELLISON

Report adopted.

April 16, 1975

Select Committee Report
On House Resolution No. 4

Mr. Speaker:

The Select Committee report on House Resolution No. 4 is as follows:

It was felt that the advertisements were misleading but consistent with other ads by other organizations regarding political matters.

It was also found that the three representatives were negligent in allowing the misleading advertisements, specifically exhibits C & D, to appear before the public.

The committee found that there is no good cause to censure or punish these three individuals.

With this, I move the adoption of the Committee Report and move that the committee be dissolved.

BRAND, Chairman

Report adopted.

MESSAGES FROM THE OTHER HOUSE

April 14, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day read three several times, and concurred in as amended, title and history agreed to, and the said bill is herewith returned to the House for concurrence in Senate Amendments:

House Bill No. 712, introduced by Bardanouve, South

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 15, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill was this day read three several times, and concurred in as amended, title and history agreed to, and the said bill is herewith returned to the House for concurrence in Senate Amendments:

House Bill No. 715, introduced by Bardanouve, Lund

Respectfully yours,

John N. Hanson
Secretary of the Senate

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April 15, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate this day on motion, duly carried, dissolved the New Conference Committee on Senate Amendments to House Bill No. 73, and the President was authorized to appoint a Conference Committee, and respectfully requests the House to appoint a like committee to confer on Senate Amendments to House Bill No. 73.

The President appointed the following members:

Senator Roberts, Chairman
Senator Murphy
Senator Dunkle

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 15, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate acceded to the request of the House and authorized the President to appoint a Free Conference Committee to meet with a like committee of the House to confer on Senate Bill No. 175.

The President appointed the following members:

Senator Manley, Chairman
Senator McOmber
Senator Brown

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 15, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the Senate acceded to the request of the House and authorized the President to appoint a Free Conference Committee to meet with a like committee of the House to confer on Senate Bill No. 342.

The President appointed the following members:

Senator Fasbender, Chairman
Senator Cetrone
Senator Mathers

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 15, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the

Senate Committee on Finance and Claims Amendments dated April 12, 1975,

Senate Committee of the Whole Amendments dated April 14, 1975, and

recommend as follows:

Having had under consideration Senate Committee on Finance and Claims Amendments dated April 12, 1975,

That the Senate recede from Amendment No. 1,

And further that House Bill No. 712 be amended as follows:

1. Amend page 9, section 8, line 6.
Strike: "8,335,353"
Insert: "6,029,072"

And further that the House accede to Amendments Nos. 2 and 3,

Having had under consideration Senate Committee of the Whole Amendments dated April 14, 1975,

That the House accede to Amendments Nos. 1 and 2,

And further that the Senate recede from Amendment No. 3,

Having further considered House Bill No. 712, the Free Joint Conference Committee further recommends:

That House Bill No. 712, reference bill, be amended as follows:

1. Amend page 6, section 7, following line 25. Insert: "To supplement the appropriation in Senate Bill No. 531,
forty-third legislature 155,000"

And that House Bill No. 712, as so amended, be concurred in.

FOR THE HOUSE:	FOR THE SENATE:
SOUTH, Chairman	
LYNCH	LYNCH
HUBING	ETCHART

Report adopted.

April 18, 1975

Free Joint Conference Committee Report
On Senate Bill No. 175

Mr. President and Speaker of the House:

We, your Free Joint Conference Committee on House Amendments to Senate Bill No. 175, met April 18, 1975, and considered:

House Committee on Natural Resources Amendments dated March 22 (printed amendments of March 20), 1975,

House Committee on Natural Resources Amendments dated March 26, 1975,

House Committee of the Whole Amendments dated April 3, 1975, and

recommend as follows:

Having had under consideration House Committee on Natural Resources Amendments dated March 22 (printed amendments of March 20), 1975,

4-18-75

That the House recede from Amendments Nos. 1 through 9,

Having had under consideration House Committee on Natural Resources Amendments dated March 26, 1975,

That the Senate accede to Amendments Nos. 1, 5, 11, and 12,

And further that the House recede from Amendments Nos. 2, 3, 4, 6 and 7 through 10,

And further that Senate Bill No. 175, Third Reading bill, be amended as follows:

4. Amend page 2, section 2, subsection (2), line 20.
Following: "elevation"
Insert: ", including the land within twenty (20) horizontal feet from that high water elevation"

6. Amend page 3, section 3, lines 15 and 16.
Following: "lagooning;"
Strike: "and filling"
Insert: "filling; constructing breakwaters of pilings; wharves and docks"

Having had under consideration House Committee of the Whole Amendments dated April 3, 1975,

That the Senate accede to Amendment No. 1

And that Senate Bill No. 175, as so amended, be concurred in.

FOR THE SENATE:	FOR THE HOUSE:
MANLEY, Chairman	HUENNEKENS, Chairman
McOMBER	MELOY
BROWN	BARRETT

Report adopted.

MESSAGES FROM THE OTHER HOUSE

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report No. 2 on House Bill No. 586

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee Report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report No. 2 (corrected copy) on House Bill No. 285

Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Nelson, Rosell, E. Smith, R. Smith, Stephens, Story, Towe, Turnage, Watt, Mr. President. Total 34.

Noes: Blaylock, Boylan, Cetrone, Fasbender, Goodover, Greely, Norman, Olson, Regan, Roberts, Romney, Roskie, Seibel, Thiessen, Warden. Total 15.

Absent and not voting: Colberg. Total 1.

Excused: None.

House Amendments to Senate Bill No. 407, having been read three several times, were concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Conover, Devine, Drake, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Greely, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Nelson, Olson, Regan, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Turnage, Warden, Watt, Mr. President. Total 43.

Noes: Foster, Murphy, Roberts, Towe. Total 4.

Absent and not voting: Colberg, Hazelbaker, Norman. Total 3.

Excused: None.

(Constitutional Amendment requiring ⅔ vote of Legislature)

At the request of the President, and without objection, the Senate reverted to Order of Business No. 4.

MESSAGES FROM THE GOVERNOR

The following communication from the Governor was received and read:

April 18, 1975

Honorable Gordon McOmber
President of the Senate
State Capitol

Dear President McOmber:

I have the honor to inform you that I have this day approved Senate Bills Nos. 310, 354, 370, 377, 379 and 388.

Sincerely,

THOMAS L. JUDGE
Governor

BUSINESS ON SECOND READING

Upon the motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Watt in the Chair. Committee arose.

Senate resumed. President McOmber presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

4-18-75

That the Free Conference Committee Report No. 2 on Senate Bill No. 175 be concurred in. Unanimously concurred in.

That consideration of the Free Conference Committee Report on House Bill No. 27 be passed. Unanimously passed.

That the Committee rise and report.

WATT, Chairman

Upon the motion of Senator Watt, duly carried, the foregoing report of the Committee of the Whole was adopted.

THIRD READING OF BILLS

The Free Conference Committee Report No. 2 on Senate Bill No. 175, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Brown, Cetrone, Conover, Devine, Drake, Dunkle, Etchart, Fasbender, Foster, Goodover, Graham, Greely, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Murphy, Nelson, Norman, Olson, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 43.

Noes: Boylan, Galt, Hazelbaker, Mehrens. Total 4.

Absent and not voting: Colberg, Flynn, Regan. Total 3.

Excused: None.

Mr. President: We, your Committee on Bills, to whom were referred: Senate Bills Nos. 78, 116, 342, beg leave to report the same back correctly enrolled.

DEVINE, Chairman

I have examined Senate Bill No. 78 introduced by me and find the same to be correct.

GREELY

I have examined Senate Bill No. 116 introduced by me and find the same to be correct.

GREELY

I have examined Senate Bill No. 342 introduced by me and find the same to be correct.

MATHERS

The Senate will please take note that the President will, at the hour of 6:30 p.m., April 18, 1975, sign the following bills: Senate Bills Nos. 78, 116, 342, and House Bills Nos. 666, 264, 341, 401, 426, 453, 557, 642, 648, 663, 715.

W. GORDON McOMBER
President

Upon motion of Senator Lynch, duly carried, the Senate adjourned at 5:56 p.m., until Saturday, April 19, 1975, at the hour of 9:00 a.m.

W. GORDON McOMBER
President of the Senate

JOHN N. HANSON
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the House Amendments to Senate Bill No. 407, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the legislature, were this day read three several times, and concurred in by the Senate with the following vote:

SENATE

YEAS - 43
NAYS - 4

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report on Senate Bill No. 54

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report No. 2 on Senate Bill No. 175

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report on House Bill No. 269

Respectfully yours,

John N. Hanson
Secretary of the Senate

4-19-75

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following Free Conference Committee report was this day on Third Reading, adopted, on roll call vote:

Free Conference Committee Report No. 2 on House Bill No. 712

Respectfully yours,

John N. Hanson
Secretary of the Senate

April 18, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bill, requiring a two-thirds affirmative roll call vote by the members of each House to override the Governor's Veto, failed to receive a two-thirds affirmative vote of the Senate, and the bill is herewith returned to the House with the following vote:

House Bill No. 155, introduced by Yardley, Fagg

SENATE

YEAS - 19
NAYS - 30

Respectfully yours,

John N. Hanson
Secretary of the Senate

MOTIONS

Meloy moved that the rules be suspended to allow the introduction of two appropriations bills.

Motion carried with a two-thirds majority.

Meloy moved that all business which passes Second Reading this day be placed on Third Reading this day.

Motion carried.

Meloy moved that all conference committee reports read this day be placed on Second Reading this day.

Motion carried.

Gunderson moved that the House reconsider its action on the Meloy motion to allow the introduction of two appropriations bills so that the motion may be considered in two parts.

Motion failed.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Meloy moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading. Motion carried.

SENATE BILL NO. 175

INTRODUCED BY BROWN, ROBERTS, DRAKE, WATT

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROTECT LAKESHORES BY REQUIRING A PERMIT FOR ANY WORK WHICH WOULD ALTER OR DIMINISH A LAKE; REQUIRING LOCAL GOVERNING BODIES TO ADOPT REGULATIONS GOVERNING THE ISSUANCE OF SUCH PERMITS; PROVIDING FOR VARIANCES, JUDICIAL REVIEW, AND FUNDING~~;--AND PROVIDING--AN--EFFECTIVE--DATE; AND PROVIDING AN EFFECTIVE DATE~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Declaration of policy. The legislature finds and declares that the natural lakes of Montana are high in scenic and resource values and that the conservation and protection of these lakes is important to the continued value of lakeshore property as well as to the state's residents and visitors who use and enjoy the lakes. The legislature further declares that local governments should play the primary public roles in establishing policies to conserve and protect lakes. Local governments do not have adequate statutory powers to protect their lake areas, and it is the purpose of this act to confer such powers on local governments, provided that such powers are exercised to maintain public health, welfare, and safety.

Section 2. Definitions. As used in this act--

(1) "Lake" means a body of standing water, and the area within its lakeshore, ~~OCCURRING-NATURALLY-RATHER-THAN-BY-VIRTUE-OF-CONSTRUCTED-IMPOUNDMENTS--(ALTHOUGH--A--NATURAL--LAKE--WHOSE--LEVEL--IS-RAISED-AND-WHOSE-AREA-IS-INCREASED-BY-THE-CONSTRUCTION-OF--IMPOUNDMENTS--INCLUDES--THE--ADDITIONAL--LEVEL--AND--AREA);~~ ~~OCCURRING-NATURALLY-RATHER-THAN-BY-VIRTUE-OF-CONSTRUCTED-IMPOUNDMENTS-(ALTHOUGH-A-NATURAL--LAKE--WHOSE-LEVEL---IS--RAISED--AND--WHOSE--ARE;--IS--INCREASED--BY-THE-CONSTRUCTION-OF-IMPOUNDMENTS-INCLUDES-THE--ADDITIONAL--LEVEL-AND--AREA);~~ ~~occurring--naturally--rather--than-by-virtue-of-constructed-impoundments--(although--a--natural--lake--whose-level---is--raised--and--whose--area--is--increased--by--the-construction-of-impoundments-includes-the--additional--level-and--area);~~ having a water surface area of at least ~~one~~ ~~TWO~~ ONE hundred ~~sixty~~ SIXTY ~~(160)~~ ~~(200)~~ (160) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, NOT USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES, and navigable by canoes and small boats. A ~~board-of-county-commissioners~~ LOCAL GOVERNING BODY may by resolution change the minimum size in the definition of a lake so that this act may apply to ~~NATURAL~~ ~~NATURAL~~ lakes in the county no smaller than twenty (20) acres in water surface area.

(2) "Lakeshore" is the perimeter of a lake when the

REFERENCE BILL

lake is at mean annual high water elevation, INCLUDING THE LAND WITHIN ONE HUNDRED (100) FEET ABOVE THAT HIGH WATER ELEVATION.

(3) "Mean annual high water elevation" is the mean average of the highest elevation of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. A highest elevation caused by operation of a dam or other impoundment counts toward the establishment of the mean annual high water elevation.

(4) "Local governing body" or "governing body" is that unit of local government authorized to administer the Montana Subdivision and Platting Act on the land adjoining a lake or part of a lake subject to this act.

Section 3. Work for which permit required. A person who proposes to do any work which will alter or diminish the course, current, or cross-sectional area of a lake OR ITS LAKESHORE must first secure a permit for the work from the local governing body. Without limitation, the following activities are, when conducted below mean annual high water elevation, examples of work for which a permit is required: construction of channels and ditches; dredging of lake bottom areas to remove muck, silt, or weeds; lagooning; and ~~filling PILING, AND CONSTRUCTING BREAKWATERS OF PILINGS~~ AND PILING FILLING; AND CONSTRUCTING BREAKWATERS OF PILINGS.

Section 4. Criteria for issuance of permits. ~~(1)--A planning-board-created-under-section--11-3801--for--an--area containing--a--lake--shall--propose,-before-January-1,-1976, regulations-governing-the-issuance-of-permits--for--work--in lakes.---The--governing--body--or--bodies--shall-adopt-these regulations-in-the-form-of--criteria--for--the--issuance--or denial--of--permits.~~ (1) BEFORE JANUARY 1, 1976, EVERY GOVERNING BODY HAVING JURISDICTION OVER AN AREA CONTAINING A LAKE SHALL ADOPT REGULATIONS, ~~IN THE FORM OF CRITERIA,~~ FOR THE ISSUANCE OR DENIAL OF PERMITS FOR WORK IN LAKES AND ON LAKESHORES. WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR AN AREA CONTAINING A LAKE, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATIONS OF THE PLANNING BOARD AS TO THE REGULATIONS TO BE ADOPTED UNDER THIS ACT.

~~(2)--The--regulations--shall--favor--issuance--if---the proposed--work--will--not,-during-either-its-construction-or its-utilization:~~

~~(a)--MATERIALLY MATERIALLY diminish-water-quality,~~

~~(b)--MATERIALLY MATERIALLY diminish--habitat--for--fish or, OR wildlife,-OR-OTHER-AQUATIC-LIFE,~~

~~(c)--interfere---with---navigation---or---other--lawful recreation;~~

~~(d)--create-a-public-nuisance,-or~~

~~(e)--create-a-visual--impact--discordant--with--natural scenic--values,--as--determined--by-the-planning-board LOCAL~~

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~~GOVERNING BODY, where such values form the predominant landscape elements.~~

(2) THE REGULATIONS SHALL INCLUDE MINIMUM STANDARDS IN THE FOLLOWING CATEGORIES:

(A) SAFE AND HEALTHFUL CONDITIONS FOR THE ENJOYMENT OF AQUATIC RECREATION;

(B) DEMANDS OF WATER TRAFFIC, BOATING AND WATER SPORTS;

(C) REQUIREMENTS NECESSARY TO ASSURE PROPER OPERATION OF SEPTIC TANK DISPOSAL FIELDS NEAR LAKES;

(D) BUILDING SETBACKS FROM THE WATER;

(E) PRESERVATION OF SHORE GROWTH AND COVER;

(F) SHORELAND LAYOUTS FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENT;

(G) RESTRICTION OF FILLING PONDS, LAKES AND RESERVOIRS;

(H) REGULATION OF THE CONSTRUCTION AND OPERATION OF WHARVES AND DOCKS.

(3) THE LOCAL GOVERNING BODY MAY PROVIDE A SUMMARY PROCEDURE TO PERMIT WORK WHICH IT FINDS HAS A MINIMAL OR INSIGNIFICANT IMPACT ON A LAKESHORE.

~~(3)~~ (4) A governing body whose area contains more than one lake may adopt regulations in differing form for the various lakes, recognizing the physical and social differences between lakes.

~~(4)~~ (5) The requirements of subsection (2) of this section are minimum requirements and do not restrict a local governing body from adopting such stricter or additional regulations as may be authorized by other statutes.

~~(5)~~ (6) ~~If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the~~ THE department of natural resources and conservation may, upon petition of five (5) owners ~~OR THIRTY PERCENT (30%) OF THE OWNERS~~ of land ~~along~~ ABUTTING a lake, WHICHEVER IS ~~GREATER~~ SMALLER, adopt such regulations for the particular lake. ~~If a local governing body has not adopted regulations in compliance with subsection (1) of this section on January 1, 1976, the department of natural resources and conservation may, upon petition of five (5) owners of land abutting a lake, adopt such regulations for the particular lake. THE~~ IF A LOCAL GOVERNING BODY HAS NOT ADOPTED REGULATIONS IN COMPLIANCE WITH SUBSECTION (1) OF THIS SECTION ON JANUARY 1, 1976, THE department of natural resources and conservation may, upon petition of five (5) owners OR THIRTY PERCENT (30%) OF THE OWNERS of land ~~along~~ ABUTTING a lake, WHICHEVER IS ~~GREATER~~ SMALLER, adopt such regulations for the particular lake. The department may then exercise the powers conferred upon a local governing body by this act until the governing body adopts the necessary regulations.

Section 5. Application for permits -- procedure. A person seeking a permit for work in a lake shall apply to the local governing body, and shall pay an application fee of ten dollars ($10) to the governing body. ~~If the governing body has or is participating in a planning board, the application shall be referred to the planning board.~~ WHERE A PLANNING BOARD HAS BEEN CREATED UNDER SECTION 11-3801 FOR THE AREA CONTAINING THE LAKE IN QUESTION, THE GOVERNING BODY SHALL SEEK THE RECOMMENDATION OF THE PLANNING BOARD AS TO THE COMPLIANCE OF THE PROPOSED WORK WITH THE CRITERIA FOR THE ISSUANCE OF A PERMIT. The planning board shall ~~determine~~ REPORT ITS RECOMMENDATIONS TO THE GOVERNING BODY AS TO whether the proposed work conforms to the criteria for issuance of a permit, and may require the applicant to submit additional information before the board ~~reaches a conclusion~~ REPORTS ITS RECOMMENDATIONS. ~~The board shall report its findings to the governing body within three (3) months of receiving an application, unless for cause the governing body extends this time.~~ In areas where a planning board is not established, the functions of a planning board under this section shall be exercised by the local ~~board of health~~ GOVERNING BODY.

Section 6. Consideration of applications by governing body. ~~When a planning board finds that proposed work conforms to the criteria for issuing a permit under this~~

~~act, the governing body shall approve or reject the application depending upon its compliance with all pertinent rules and statutes. When a planning board finds that proposed work does not conform to these criteria, the governing body may not approve the application without first granting to the applicant a variance from the regulations.~~ UNLESS THE APPLICANT AGREES TO AN EXTENSION OF TIME, THE GOVERNING BODY SHALL GRANT OR DENY PERMISSION FOR THE WORK WITHIN NINETY (90) DAYS OF RECEIVING AN APPLICATION FOR A PERMIT. IF THE GOVERNING BODY FINDS THAT THE PROPOSED WORK CONFORMS TO THE CRITERIA FOR ISSUING A PERMIT IT SHALL ISSUE A PERMIT OR CONDITIONAL PERMIT. IF THE GOVERNING BODY FINDS THAT THE WORK DOES NOT CONFORM TO THE CRITERIA, IT SHALL DENY THE APPLICATION.

Section 7. Variance procedure. A governing body which proposes to grant a variance from its regulations under this act shall first prepare an environmental impact statement at the expense of the applicant which conforms to the requirements of ~~the Montana Environmental Policy Act~~ REGULATIONS ADOPTED PURSUANT TO THIS ACT, distribute this statement to interested residents, and conduct a public hearing on the proposed action.

Section 8. ~~Removing work undertaken without permit.~~ RESTORATION -- PROPERTY RIGHTS. (1) A person who performs work in a lake after the effective date of this act without

a permit for that work shall, IF REQUIRED BY THE LOCAL GOVERNING BODY OR THE DISTRICT COURT, restore the lake to its condition before he disturbed it~~,--upon--order--of--the governing-body-or-the-district-court~~.

(2) WORK OR DEVELOPMENT AUTHORIZED OR APPROVED UNDER THIS ACT SHALL NOT CREATE A VESTED PROPERTY RIGHT IN THE PERMITTED DEVELOPMENT, OTHER THAN IN THE PHYSICAL STRUCTURE, IF ANY, SO DEVELOPED.

SECTION 9. IF A LAKE, AS DEFINED BY THIS ACT, IS LOCATED UNDER THE JURISDICTION OF MORE THAN ONE GOVERNING BODY, THE GOVERNING BODIES ARE EMPOWERED AND ENCOURAGED TO ENTER INTO AGREEMENTS TO EFFECTUATE THE PURPOSES OF THIS ACT, AND ESTABLISH COMPATIBLE CRITERIA FOR DENIAL OR ISSUANCE OF PERMITS.

Section 10. Judicial enforcement and review. The district court may hear and decide the following cases arising under this act within the district:

(1) A complaint and petition of a governing body or an interested person for an order to restore a lake to its previous condition or to enjoin further work in a lake.

(2) A petition of an interested person for review of a final action of a governing body upon an application for a permit.

(3) A petition of an interested person for review of an action of a governing body in adopting or amending

regulations.

Section 11. Penalty. A person who violates an order issued under this act or who knowingly violates a regulation made under this act commits a misdemeanor, and on conviction may be sentenced to thirty (30) days in the county jail or fined five hundred dollars ($500), or both. Fines collected under this section shall be paid to the general fund of the county where the offense was committed for the purpose of administering this act.

Section 12. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Funding. In compliance with section 43-517, R.C.M. 1947, the administration of this act is declared a public purpose of a city or county which may be paid out of permit application fees collected under section [5 of this act] and federal revenue sharing moneys.

~~SECTION-14.--EFFECTIVE-DATE.---THIS--ACT--IS--EFFECTIVE UPON-PASSAGE-AND-APPROVAL.~~

SECTION 14. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON PASSAGE AND APPROVAL.

-End-

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